

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1407

Citations Affected: IC 4-1-8-1; IC 9-25-5-5; IC 12-17.6-4-5; IC 16-21-2-16; IC 16-25-3-11; IC 16-27-1-17; IC 16-28-2-10; IC 22-2-2-3; IC 22-3-3-13; IC 22-4-8-3; IC 24-4.5-6-201; IC 25-1-9-19; IC 27-1; IC 27-2-17-3; IC 27-2-17-6; IC 27-4-1-2; IC 27-4-1-4; IC 27-4-3; IC 27-5-4-2; IC 27-6-9-5; IC 27-7; IC 27-8; IC 27-9; IC 27-10-3-1; IC 27-10-3-3; IC 27-11-8-9; IC 27-13; IC 28-1-11-2; IC 28-1-11-2.5; IC 28-5-1-6.5; IC 28-6.1-6-14; IC 28-7-1-9.1; IC 28-14-3-10; IC 28-14-3-11; IC 34-18-5-3; IC 35-43-9-4.

Synopsis: Insurance matters. Replaces references to insurance agents and limited insurance representatives with insurance producer. Provides that in certain circumstances a life insurance company may issue or issue for delivery in Indiana funding agreements. Allows the insurance commissioner to waive requirements related to accident and sickness insurer and health maintenance organization processing of paper claims under certain circumstances. Provides that an accident and sickness insurer or a health maintenance organization that does not resolve an appeal within the statutory time frame commits an unfair and deceptive act or practice in the business of insurance. Requires quarterly reporting regarding resolution of grievance appeals. Specifies certain requirements for health care providers concerning notice to patients of third party billings. **(This conference committee report provides that an accident and sickness insurer or a health maintenance organization that does not resolve an appeal within the statutory time frame commits an unfair and deceptive act or practice in the business of insurance. Requires quarterly reporting regarding resolution of grievance appeals. Specifies certain requirements for health care providers concerning notice to patients of third party billings.)**

Effective: Upon passage; July 1, 2003; January 1, 2004.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1407 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert:
- 2 SECTION 1. IC 4-1-8-1, AS AMENDED BY HEA 1935-2003,
- 3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2003]: Sec. 1. (a) No individual may be compelled by any
- 5 state agency, board, commission, department, bureau, or other entity of
- 6 state government (referred to as "state agency" in this chapter) to
- 7 provide the individual's Social Security number to the state agency
- 8 against the individual's will, absent federal requirements to the
- 9 contrary. However, the provisions of this chapter do not apply to the
- 10 following:
- 11 (1) Department of state revenue.
- 12 (2) Department of workforce development.
- 13 (3) The programs administered by:
- 14 (A) the division of family and children;
- 15 (B) the division of mental health and addiction;
- 16 (C) the division of disability, aging, and rehabilitative services;
- 17 and
- 18 (D) the office of Medicaid policy and planning;
- 19 of the office of the secretary of family and social services.
- 20 (4) Auditor of state.
- 21 (5) State personnel department.
- 22 (6) Secretary of state, with respect to the registration of

broker-dealers, agents, and investment advisors.

(7) The legislative ethics commission, with respect to the registration of lobbyists.

(8) Indiana department of administration, with respect to bidders on contracts.

(9) Indiana department of transportation, with respect to bidders on contracts.

(10) Health professions bureau.

(11) Indiana professional licensing agency.

(12) Indiana department of insurance, with respect to licensing of insurance ~~agents~~ **producers**.

(13) A pension fund administered by the board of trustees of the public employees' retirement fund.

(14) The Indiana state teachers' retirement fund.

(15) The state police benefit system.

(b) The bureau of motor vehicles may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number in an application for an official certificate of title for any vehicle required to be titled under IC 9-17.

(2) That an individual include the individual's Social Security number on an application for registration.

(3) That a corporation, limited liability company, firm, partnership, or other business entity include its federal tax identification number on an application for registration.

(c) The Indiana department of administration, the Indiana department of transportation, the health professions bureau, and the Indiana professional licensing agency may require an employer to provide its federal employer identification number.

(d) The department of correction may require a committed offender to provide the offender's Social Security number for purposes of matching data with the Social Security Administration to determine benefit eligibility.

(e) The Indiana gaming commission may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number in any application for a riverboat owner's license, supplier's license, or occupational license.

(2) That a sole proprietorship, a partnership, an association, a fiduciary, a corporation, a limited liability company, or any other business entity include its federal tax identification number on an application for a riverboat owner's license or supplier's license.

(f) Notwithstanding this chapter, the professional standards board established by IC 20-1-1.4-2 may require an individual who applies to the board for a license or an endorsement to provide the individual's Social Security number. The Social Security number may be used by the board only for conducting a background investigation, if the board is authorized by statute to conduct a background investigation of an individual for issuance of the license or endorsement.

SECTION 2. IC 9-25-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A person who receives a

request for evidence of financial responsibility under section 3 of this chapter shall set forth in the certificate of compliance the following information concerning the form of financial responsibility that was in effect with respect to the motor vehicle on the date in question:

(1) If a motor vehicle liability policy was in effect, the following:

(A) The name and address of the insurer.

(B) The limits of coverage of the policy.

(C) The identification number applying to the policy.

(2) If a bond was in effect, the following:

(A) The name and address of the bond company or surety.

(B) The face amount of the bond.

(3) If self-insurance was in effect under IC 9-25-4-11, the following:

(A) The date on which the certificate of self-insurance was issued by the bureau.

(B) The name of the person to whom the certificate of self-insurance was issued.

(b) A person who requests information or verification of coverage to complete a certificate of compliance under subsection (a) from:

(1) an insurance company; or

(2) an insurance ~~agent~~; **producer**;

is not required to give the company or the ~~agent~~ **producer** a reason for requesting the information unless the person has been involved in an accident.

SECTION 3. IC 12-17.6-4-5, AS ADDED BY P.L.273-1999, SECTION 177, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) It is a violation of IC 27-4-1-4 if an insurer, or an insurance ~~agent~~ **producer** or insurance broker compensated by the insurer, knowingly or intentionally refers an insured or the dependent of an insured to the program for health insurance coverage when the insured already receives health insurance coverage through an employer's health care plan that is underwritten by the insurer.

(b) The office shall coordinate with the children's health policy board under IC 4-23-27 to evaluate the need for mechanisms that minimize the incentive for an employer to eliminate or reduce health care coverage for an employee's dependents.

SECTION 4. IC 16-21-2-16 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 16. A hospital or an ambulatory outpatient surgical center that provides to a patient notice concerning a third party billing for a service provided to the patient shall ensure that the notice:**

(1) conspicuously states that the notice is not a bill;

(2) does not include a tear-off portion; and

(3) is not accompanied by a return mailing envelope.

SECTION 5. IC 16-25-3-11 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 11. A hospice that provides to a hospice program patient notice concerning a third party billing for a hospice service provided to the hospice program patient shall**

1 ensure that the notice:

2 (1) conspicuously states that the notice is not a bill;

3 (2) does not include a tear-off portion; and

4 (3) is not accompanied by a return mailing envelope.

5 SECTION 6. IC 16-27-1-17 IS ADDED TO THE INDIANA CODE
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
7 JANUARY 1, 2004]: **Sec. 17. A home health agency that provides
8 to a patient notice concerning a third party billing for a home
9 health service provided to the patient shall ensure that the notice:**

10 (1) conspicuously states that the notice is not a bill;

11 (2) does not include a tear-off portion; and

12 (3) is not accompanied by a return mailing envelope.

13 SECTION 7. IC 16-28-2-10 IS ADDED TO THE INDIANA CODE
14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
15 JANUARY 1, 2004]: **Sec. 10. A health facility that provides to a
16 patient notice concerning a third party billing for a service
17 provided to the patient shall ensure that the notice:**

18 (1) conspicuously states that the notice is not a bill;

19 (2) does not include a tear-off portion; and

20 (3) is not accompanied by a return mailing envelope.

21 SECTION 8. IC 22-2-2-3 IS AMENDED TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2003]: **Sec. 3. As used in this chapter:**

23 "Commissioner" means the commissioner of labor or the
24 commissioner's authorized representative.

25 "Department" means the department of labor.

26 "Occupation" means an industry, trade, business, or class of work in
27 which employees are gainfully employed.

28 "Employer" means any individual, partnership, association, limited
29 liability company, corporation, business trust, the state, or other
30 governmental agency or political subdivision during any work week in
31 which they have two (2) or more employees. However, it shall not
32 include any employer who is subject to the minimum wage provisions
33 of the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C.
34 201-209).

35 "Employee" means any person employed or permitted to work or
36 perform any service for remuneration or under any contract of hire,
37 written or oral, express or implied by an employer in any occupation,
38 but shall not include any of the following:

39 (a) Persons less than sixteen (16) years of age.

40 (b) Persons engaged in an independently established trade,
41 occupation, profession, or business who, in performing the services
42 in question, are free from control or direction both under a contract
43 of service and in fact.

44 (c) Persons performing services not in the course of the employing
45 unit's trade or business.

46 (d) Persons employed on a commission basis.

47 (e) Persons employed by their own parent, spouse, or child.

48 (f) Members of any religious order performing any service for that
49 order, any ordained, commissioned, or licensed minister, priest,
50 rabbi, sexton, or Christian Science reader, and volunteers
51 performing services for any religious or charitable organization.

(g) Persons performing services as student nurses in the employ of a hospital or nurses training school while enrolled and regularly attending classes in a nurses training school chartered or approved under law, or students performing services in the employ of persons licensed as both funeral directors and embalmers as a part of their requirements for apprenticeship to secure an embalmer's license or a funeral director's license from the state, or during their attendance at any schools required by law for securing an embalmer's or funeral director's license.

(h) Persons who have completed a four (4) year course in a medical school approved by law when employed as interns or resident physicians by any accredited hospital.

(i) Students performing services for any school, college, or university in which they are enrolled and are regularly attending classes.

(j) Persons with physical or mental disabilities performing services for nonprofit organizations organized primarily for the purpose of providing employment for persons with disabilities or for assisting in their therapy and rehabilitation.

(k) Persons employed as insurance ~~agents~~, **producers**, insurance solicitors, and outside salesmen, if all their services are performed for remuneration solely by commission.

(l) Persons performing services for any camping, recreational, or guidance facilities operated by a charitable, religious, or educational nonprofit organization.

(m) Persons engaged in agricultural labor. The term shall include only services performed:

(1) on a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife;

(2) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of the farm and its tools and equipment if the major part of the service is performed on a farm;

(3) in connection with:

(A) the production or harvesting of maple sugar or maple syrup or any commodity defined as an agricultural commodity in the Agricultural Marketing Act, as amended (12 U.S.C. 1141j);

(B) the raising or harvesting of mushrooms;

(C) the hatching of poultry; or

(D) the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes; and

(4) in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage, to market, or to a carrier for transportation to market, any agricultural or horticultural commodity, but only if service is performed as an

incident to ordinary farming operation or, in the case of fruits and vegetables, as an incident to the preparation of fruits and vegetables for market. However, this exception shall not apply to services performed in connection with any agricultural or horticultural commodity after its delivery to a terminal market or processor for preparation or distribution for consumption.

As used in this subdivision, "farm" includes stock, dairy, poultry, fruit, furbearing animals, and truck farms, nurseries, orchards, or greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities.

(n) Those persons employed in executive, administrative, or professional occupations who have the authority to employ or discharge and who earn one hundred fifty dollars (\$150) or more a week, and outside salesmen.

(o) Any person not employed for more than four (4) weeks in any four (4) consecutive three (3) month periods.

(p) Any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service under the federal Motor Carrier Act of 1935 (49 U.S.C. 304(3)) or any employee of a carrier subject to IC 8-2.1.

SECTION 9. IC 22-3-3-13, AS AMENDED BY P.L.202-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) As used in this section, "board" refers to the worker's compensation board created under IC 22-3-1-1.

(b) If an employee who from any cause, had lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent industrial accident becomes permanently and totally disabled by reason of the loss, or loss of use of, another such member or eye, the employer shall be liable only for the compensation payable for such second injury. However, in addition to such compensation and after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for such total permanent disability out of a special fund known as the second injury fund, and created in the manner described in subsection (c).

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries, including applicants under section 4(e) of this chapter, continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice not later than October 1 in any year to:

(1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or the death of their employees under this article; and

(2) each employer carrying the employer's own risk;

stating that an assessment is necessary. After June 30, 1999, the board may conduct an assessment under this subsection not more than one (1) time annually. Every insurance carrier and other entity insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or death of their employees under this article and every employer carrying the

1 employer's own risk, shall, within thirty (30) days of the board sending
 2 notice under this subsection, pay to the worker's compensation board
 3 for the benefit of the fund an assessed amount that may not exceed two
 4 and one-half percent (2.5%) of the total amount of all worker's
 5 compensation paid to injured employees or their beneficiaries under
 6 IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the
 7 due date of such payment. For the purposes of calculating the
 8 assessment under this subsection, the board may consider payments for
 9 temporary total disability, temporary partial disability, permanent total
 10 impairment, permanent partial impairment, or death of an employee.
 11 The board may not consider payments for medical benefits in
 12 calculating an assessment under this subsection. If the amount to the
 13 credit of the second injury fund on or before October 1 of any year
 14 exceeds one million dollars (\$1,000,000), the assessment allowed
 15 under this subsection shall not be assessed or collected during the
 16 ensuing year. But when on or before October 1 of any year the amount
 17 to the credit of the fund is less than one million dollars (\$1,000,000),
 18 the payments of not more than two and one-half percent (2.5%) of the
 19 total amount of all worker's compensation paid to injured employees or
 20 their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar
 21 year next preceding that date shall be resumed and paid into the fund.
 22 The board may not use an assessment rate greater than twenty-five
 23 hundredths of one percent (0.25%) above the amount recommended by
 24 the study performed before the assessment.

25 (d) The board shall enter into a contract with an actuary or another
 26 qualified firm that has experience in calculating worker's compensation
 27 liabilities. Not later than September 1 of each year, the actuary or other
 28 qualified firm shall calculate the recommended funding level of the
 29 fund based on the previous year's claims and inform the board of the
 30 results of the calculation. If the amount to the credit of the fund is less
 31 than the amount required under subsection (c), the board may conduct
 32 an assessment under subsection (c). The board shall pay the costs of the
 33 contract under this subsection with money in the fund.

34 (e) An assessment collected under subsection (c) on an employer
 35 who is not self-insured must be assessed through a surcharge based on
 36 the employer's premium. An assessment collected under subsection (c)
 37 does not constitute an element of loss, but for the purpose of collection
 38 shall be treated as a separate cost imposed upon insured employers. A
 39 premium surcharge under this subsection must be collected at the same
 40 time and in the same manner in which the premium for coverage is
 41 collected, and must be shown as a separate amount on a premium
 42 statement. A premium surcharge under this subsection must be
 43 excluded from the definition of premium for all purposes, including the
 44 computation of ~~agent~~ **insurance producer** commissions or premium
 45 taxes. However, an insurer may cancel a worker's compensation policy
 46 for nonpayment of the premium surcharge. A cancellation under this
 47 subsection must be carried out under the statutes applicable to the
 48 nonpayment of premiums.

49 (f) The sums shall be paid by the board to the treasurer of state, to be
 50 deposited in a special account known as the second injury fund. The
 51 funds are not a part of the general fund of the state. Any balance

remaining in the account at the end of any fiscal year shall not revert to the general fund. The funds shall be used only for the payment of awards of compensation and expense of medical examinations or treatment made and ordered by the board and chargeable against the fund pursuant to this section, and shall be paid for that purpose by the treasurer of state upon award or order of the board.

(g) If an employee who is entitled to compensation under IC 22-3-2 through IC 22-3-6 either:

(1) exhausts the maximum benefits under section 22 of this chapter without having received the full amount of award granted to the employee under section 10 of this chapter; or

(2) exhausts the employee's benefits under section 10 of this chapter;

then such employee may apply to the board, who may award the employee compensation from the second injury fund established by this section, as follows under subsection (h).

(h) An employee who has exhausted the employee's maximum benefits under section 10 of this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's injury, not to exceed the maximum then applicable under section 22 of this chapter, for a period of not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(i) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the board for successive periods not to exceed one hundred fifty (150) weeks each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

(j) All insurance carriers subject to an assessment under this section are required to provide to the board:

(1) not later than January 31 each calendar year; and

(2) not later than thirty (30) days after a change occurs;

the name, address, and electronic mail address of a representative authorized to receive the notice of an assessment.

SECTION 10. IC 22-4-8-3, AS AMENDED BY P.L.1-2003, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. "Employment" shall not include the following:

(a) Except as provided in section 2(i) of this chapter, service performed prior to January 1, 1978, in the employ of this state, any other state, any town or city, or political subdivision, or any instrumentality of any of them, other than service performed in the

employ of a municipally owned public utility as defined in this article; or service performed in the employ of the United States of America, or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by this article, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation statute, all of the provisions of this article shall be applicable to such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services. However, if this state shall not be certified for any year by the Secretary of Labor under Section 3304 of the Internal Revenue Code the payments required of such instrumentalities with respect to such year shall be refunded by the commissioner from the fund in the same manner and within the same period as is provided in IC 22-4-32-19 with respect to contribution erroneously paid or wrongfully assessed.

(b) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress; however, the board is authorized to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner provided in IC 22-4-19-2 for rules of the board, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this article, acquired rights to unemployment compensation under such Act of Congress, or who have, after having acquired potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this article.

(c) "Agricultural labor" as provided in section 2(l)(1) of this chapter shall include only services performed:

(i) on a farm, in the employ of any person, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife;

(ii) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(iii) in connection with the production or harvesting of any commodity defined as an agricultural commodity in Section 15(g) of the Agricultural Marketing Act, as amended, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(iv)(A) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for

1 transportation to market, in its unmanufactured state, any
 2 agricultural or horticultural commodity; but only if such operator
 3 produced more than one-half (1/2) of the commodity with respect
 4 to which such service is performed;

5 (B) in the employ of a group of operators of farms (or a cooperative
 6 organization of which such operators are members) in the
 7 performance of service described in subdivision (A), but only if
 8 such operators produce more than one-half (1/2) of the commodity
 9 with respect to which such service is performed;

10 (C) the provisions of subdivisions (A) and (B) shall not be deemed
 11 to be applicable with respect to service performed in connection
 12 with commercial canning or commercial freezing or in connection
 13 with any agricultural or horticultural commodity after its delivery
 14 to a terminal market for distribution for consumption; or

15 (v) on a farm operated for profit if such service is not in the course
 16 of the employer's trade or business or is domestic service in a
 17 private home of the employer.

18 As used in this subsection, "farm" includes stock, dairy, poultry, fruit,
 19 furbearing animals, and truck farms, nurseries, orchards, greenhouses,
 20 or other similar structures used primarily for the raising of agricultural
 21 or horticultural commodities.

22 (d) Domestic service in a private home, local college club, or local
 23 chapter of a college fraternity or sorority, except as provided in section
 24 2(m) of this chapter.

25 (e) Service performed on or in connection with a vessel or aircraft not
 26 an American vessel or American aircraft, if the employee is employed
 27 on and in connection with such vessel or aircraft when outside the
 28 United States.

29 (f) Service performed by an individual in the employ of child or
 30 spouse, and service performed by a child under the age of twenty-one
 31 (21) in the employ of a parent.

32 (g) Service not in the course of the employing unit's trade or business
 33 performed in any calendar quarter by an individual, unless the cash
 34 remuneration paid for such service is fifty dollars (\$50) or more and
 35 such service is performed by an individual who is regularly employed
 36 by such employing unit to perform such service. For the purposes of
 37 this subsection, an individual shall be deemed to be regularly employed
 38 to perform service not in the course of an employing unit's trade or
 39 business during a calendar quarter only if:

40 (i) on each of some of twenty-four (24) days during such quarter
 41 such individual performs such service for some portion of the day;

42 or

43 (ii) such individual was regularly employed (as determined under
 44 clause (i)) by such employing unit in the performance of such
 45 service during the preceding calendar quarter.

46 (h) Service performed by an individual in any calendar quarter in the
 47 employ of any organization exempt from income tax under Section 501
 48 of the Internal Revenue Code (except those services included in
 49 sections 2(i) and 2(j) of this chapter if the remuneration for such
 50 service is less than fifty dollars (\$50).

51 (i) Service performed in the employ of a hospital, if such service is

- 1 performed by a patient of such hospital.
- 2 (j) Service performed in the employ of a school, college, or university
- 3 if such service is performed:
- 4 (i) by a student who is enrolled and is regularly attending classes
- 5 at such school, college, or university; or
- 6 (ii) by the spouse of such a student, if such spouse is advised, at the
- 7 time such spouse commences to perform such service, that:
- 8 (A) the employment of such spouse to perform such service is
- 9 provided under a program to provide financial assistance to such
- 10 student by such school, college, or university; and
- 11 (B) such employment will not be covered by any program of
- 12 unemployment insurance.
- 13 (k) Service performed by an individual who is enrolled at a nonprofit
- 14 or public educational institution which normally maintains a regular
- 15 faculty and curriculum and normally has a regularly organized body of
- 16 students in attendance at the place where its educational activities are
- 17 carried on as a student in a full-time program, taken for credit at such
- 18 institution, which combines academic instruction with work
- 19 experience, if such service is an integral part of such program, and such
- 20 institution has so certified to the employer, except that this subsection
- 21 shall not apply to service performed in a program established for or on
- 22 behalf of an employer or group of employers.
- 23 (l) Service performed in the employ of a government foreign to the
- 24 United States of America, including service as a consular or other
- 25 officer or employee or a nondiplomatic representative.
- 26 (m) Service performed in the employ of an instrumentality wholly
- 27 owned by a government foreign to that of the United States of America,
- 28 if the service is of a character similar to that performed in foreign
- 29 countries by employees of the United States of America or of an
- 30 instrumentality thereof, and if the board finds that the Secretary of State
- 31 of the United States has certified to the Secretary of the Treasury of the
- 32 United States that the government, foreign to the United States, with
- 33 respect to whose instrumentality exemption is claimed, grants an
- 34 equivalent exemption with respect to similar service performed in such
- 35 country by employees of the United States and of instrumentalities
- 36 thereof.
- 37 (n) Service performed as a student nurse in the employ of a hospital
- 38 or nurses' training school by an individual who is enrolled and is
- 39 regularly attending classes in a nurses' training school chartered or
- 40 approved pursuant to state law; and service performed as an intern in
- 41 the employ of a hospital by an individual who has completed a four (4)
- 42 year course in a medical school chartered or approved pursuant to state
- 43 law.
- 44 (o) Service performed by an individual as an insurance ~~agent~~
- 45 **producer** or as an insurance solicitor, if all such service performed by
- 46 such individual is performed for remuneration solely by way of
- 47 commission.
- 48 (p)(A) Service performed by an individual under the age of eighteen
- 49 (18) in the delivery or distribution of newspapers or shopping news, not
- 50 including delivery or distribution to any point for subsequent delivery
- 51 or distribution.

(B) Services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back.

(q) Service performed in the employ of an international organization.

(r) Except as provided in IC 22-4-7-1, services covered by an election duly approved by the agency charged with the administration of any other state or federal unemployment compensation law in accordance with an arrangement pursuant to IC 22-4-22-1 through IC 22-4-22-5, during the effective period of such election.

(s) If the service performed during one-half (1/2) or more of any pay period by an individual for an employing unit constitutes employment, all the services of such individual for such period shall be deemed to be employment; but if the services performed during more than one-half (1/2) of any pay period by such an individual do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this subsection, "pay period" means a period of not more than thirty-one (31) consecutive days for which a payment of remuneration is ordinarily made to the individual by the employing unit. This subsection shall not be applicable with respect to services performed in a pay period by any such individual where any such service is excepted by subsection (b).

(t) Service performed by an inmate of a custodial or penal institution.

(u) Service performed as a precinct election officer (as defined in IC 3-5-2-40.1).

SECTION 11. IC 24-4.5-6-201 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 201. (1) This section, IC 24-4.5-6-202, and IC 24-4.5-6-203 apply to a person, including a supervised financial organization, engaged in Indiana in any of the following:

(a) Making consumer credit sales, consumer leases, or consumer loans.

(b) Taking assignments of rights against debtors that arise from sales, leases, or loans by a person having an office or a place of business in Indiana, and undertaking direct collection of payments from the debtors or enforcement of rights against the debtors.

(c) Placing consumer credit insurance, receiving commissions for consumer credit insurance, or acting as ~~an agent~~ **a limited line credit insurance producer** in the sale of consumer credit insurance.

(2) This section, IC 24-4.5-6-202, and IC 24-4.5-6-203 are not applicable to a seller whose credit sales consist entirely of sales made pursuant to a seller credit card issued by a person other than the seller if the issuer of the card has complied with the provisions of this section, IC 24-4.5-6-202, and IC 24-4.5-6-203.

(3) This section, IC 24-4.5-6-202, and IC 24-4.5-6-203 apply to a seller whose credit sales are made using credit cards that:

- (a) are issued by a lender;
- (b) are in the name of the seller; and
- (c) can be used by the buyer or lessee only for purchases or leases at locations of the named seller.

SECTION 12. IC 25-1-9-19 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JANUARY 1, 2004]: **Sec. 19. A practitioner that provides to a patient notice concerning a third party billing for a health care service provided to the patient shall ensure that the notice:**

- (1) conspicuously states that the notice is not a bill;**
- (2) does not include a tear-off portion; and**
- (3) is not accompanied by a return mailing envelope.**

SECTION 13. IC 27-1-2-3, AS AMENDED BY P.L.48-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. As used in this article, and unless a different meaning appears from the context: (a) "Insurance" means a contract of insurance or an agreement by which one (1) party, for a consideration, promises to pay money or its equivalent or to do an act valuable to the insured upon the destruction, loss or injury of something in which the other party has a pecuniary interest, or in consideration of a price paid, adequate to the risk, becomes security to the other against loss by certain specified risks; to grant indemnity or security against loss for a consideration.

(b) "Commissioner" means the "insurance commissioner" of this state.

(c) "Department" means "the department of insurance" of this state.

(d) The term "company" or "corporation" means an insurance company and includes all persons, partnerships, corporations, associations, orders or societies engaged in or proposing to engage in making any kind of insurance authorized by the laws of this state.

(e) The term "domestic company" or "domestic corporation" means an insurance company organized under the insurance laws of this state.

(f) The term "foreign company" or "foreign corporation" means an insurance company organized under the laws of any state of the United States other than this state or under the laws of any territory or insular possession of the United States or the District of Columbia.

(g) The term "alien company" or "alien corporation" means an insurance company organized under the laws of any country other than the United States or territory or insular possession thereof or of the District of Columbia.

(h) The term "person" includes individuals, corporations, associations, and partnerships; personal pronoun includes all genders; the singular includes the plural and the plural includes the singular.

(k) The term "insurance solicitor" means any natural person employed to aid an insurance ~~agent~~ **producer** in any manner in soliciting, negotiating, or effecting contracts of insurance or indemnity other than life.

(l) The term "principal office" means that office maintained by the corporation in this state, the address of which is required by the provisions of this article to be kept on file in the office of the department.

(m) The term "articles of incorporation" includes both the original articles of incorporation and any and all amendments thereto, except where the original articles of incorporation only are expressly referred to, and includes articles of merger, consolidation and reinsurance, and in case of corporations, heretofore organized, articles of reorganization filed in the office of the secretary of state, and all amendments thereto.

(n) The term "shareholder" means one who is a holder of record of shares of stock in a corporation, unless the context otherwise requires.

(o) The term "policyholder" means one who is a holder of a contract of insurance in an insurance company.

(p) The term "member" means one who holds a contract of insurance or is insured in an insurance company other than a stock corporation.

(q) The term "capital stock" means the aggregate amount of the par value of all shares of capital stock.

(r) The term "capital" means the aggregate amount paid in on the shares of capital stock of a corporation issued and outstanding.

(s) The term "life insurance company" means any company making one or more of the kinds of insurance set out and defined in class 1(a) of IC 27-1-5-1.

(t) The term "casualty insurance company" means any company making the kind or kinds of insurance set out and defined in class 2 of IC 27-1-5-1.

(u) The term "fire and marine insurance company" means any company making the kind or kinds of insurance set out and defined in class 3 of IC 27-1-5-1.

(v) The term "certificate of authority" means an instrument in writing issued by the department to an insurer, which sets out the authority of such insurer to engage in the business of insurance or activities connected therewith.

(w) The term "premium" means money or any other thing of value paid or given in consideration to an insurer, ~~agent,~~ **insurance producer**, or solicitor on account of or in connection with a contract of insurance and shall include as a part but not in limitation of the above, policy fees, admission fees, membership fees and regular or special assessments and payments made on account of annuities.

(x) The term "insurer" means a company, firm, partnership, association, order, society or system making any kind or kinds of insurance and shall include associations operating as Lloyds, reciprocal or inter-insurers, or individual underwriters.

(y) The terms "assessment plan" and "assessment insurance" mean the mode or plan and the business of a corporation, association or society organized and limited to the making of insurance on the lives of persons and against disability from disease, bodily injury or death by accident, and which provides for the payment of policy claims, accumulation of reserve or emergency funds, and the expenses of the management and prosecution of its business by payments to be made either at stated periods named in the contract or upon assessments, and wherein the insured's liability to contribute is not limited to a fixed sum.

(z) "Agency billed" refers to a system in which an insured pays a premium directly to an insurance agency.

SECTION 14. IC 27-1-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. The commissioner may, personally or through ~~his~~ **the commissioner's** deputies and assistants, examine into the affairs of any such proposed company and inspect its books and papers, and may summon and examine under oath any officer or ~~agent~~ **insurance producer** or any person who is or has been connected with such company, and if ~~he~~ **the commissioner** finds the company is violating the law, or if the company shall not be qualified for a certificate of authority within one (1) year from date of its permit, ~~he~~ **the commissioner** may revoke its permit; and if ~~he~~ **the commissioner** finds an ~~agent~~ **insurance producer** of such company has violated the law, ~~he~~ **the commissioner** may revoke ~~his~~ **the insurance producer's** authority, and ~~he~~ **the commissioner** may for ~~such agent's~~ **the insurance producer's** violation revoke the company's permit. Any revocation shall be after notice and hearing. The commissioner may renew any company's permit or agent's authority which ~~he~~ **the commissioner** has revoked.

SECTION 15. IC 27-1-6.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. When any insurer admitted to transact business in this state transfers its domicile to this or any other state, its certificate of authority, ~~agents'~~ **insurance producers'** appointments and licenses, policy forms, rates, authorizations, and other filings and approvals which existed at the time of the transfer, remain in effect after the transfer of domicile occurs.

SECTION 16. IC 27-1-12-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 43. (a) As used in this section, "life insurance policy" means:

- (1) an individual life insurance policy other than a credit life insurance policy; or
- (2) an individual policy of variable life insurance; that is sold after June 30, 1994.

(b) No life insurance policy may be issued in Indiana or issued for delivery in Indiana unless it contains a provision allowing the policyholder to return the policy to:

- (1) the insurer;
- (2) the ~~agent~~ **insurance producer** through whom the policy was purchased; or
- (3) any agent of the insurer;

within ten (10) days after the policy is received by the policyholder for a full refund of all money paid by the policyholder.

(c) Each life insurance policy must have prominently printed on its first page a notice setting forth in substance the provisions of subsection (b).

SECTION 17. IC 27-1-12.6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. Each annuity contract shall contain a provision giving the purchaser an unrestricted right to return the contract to the company or to the ~~agent~~ **insurance producer** through whom it was purchased, on or before the tenth day after it is received by the purchaser, such return entitling the purchaser

to a return of the value of a variable annuity account or the monies paid by the purchaser to a fixed account in connection with the issuance of the contract. This provision shall be conspicuously placed on the face of the contract. This provision does not apply to contracts issued in connection with a pension, annuity, or profit-sharing plan qualified or exempt under Sections 401, 403, 404, or 501 of the Internal Revenue Code, if participation in the plan is a condition of employment.

SECTION 18. IC 27-1-12.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 12.7. Funding Agreements

Sec. 1. As used in this chapter, "funding agreement" means an agreement that:

- (1) is issued by a life insurance company to a holder;
- (2) authorizes a life insurance company to accept funds; and
- (3) provides for an accumulation of the funds for the purpose of making one (1) or more payments at future dates in amounts that are not based on mortality or morbidity contingencies of the holder of the funding agreement.

Sec. 2. As used in this chapter, "holder" means a person described in section 5 of this chapter that is issued a funding agreement by a life insurance company.

Sec. 3. As used in this chapter, "life insurance company" means a life insurance company authorized to issue a product described in Class 1(c) of IC 27-1-5-1.

Sec. 4. As used in this chapter, "optional modes of settlement" means the manner in which the funding agreement is structured to repay interest and principal to the holder.

Sec. 5. A life insurance company may issue or issue for delivery in Indiana a funding agreement to the following:

- (1) A person authorized by a state or foreign country to engage in an insurance business or a subsidiary of an insurance business.
- (2) A person who uses the funding agreement for the purpose of funding:
 - (A) benefits under an employee benefit plan (as defined in the federal Employee Retirement Security Act of 1974, 29 U.S.C. 1001 et seq.);
 - (B) the activities of a nonprofit organization exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code or a similar nonprofit organization domiciled in a foreign country;
 - (C) a program of:
 - (i) the United States government;
 - (ii) a state government;
 - (iii) a political subdivision;
 - (iv) a foreign country; or
 - (v) an agency or instrumentality of the United States or a state government, a political subdivision, or a foreign country;
 - (D) an agreement providing for periodic payments in

1 satisfaction of a claim;

2 (E) a program of an institution with assets exceeding
3 twenty-five million dollars (\$25,000,000);

4 (F) a program in which a business entity, including a trust:

5 (i) purchases and holds funding agreements; and

6 (ii) issues securities by using the funding agreement to
7 finance or collateralize the securities; or

8 (G) any program or activity substantially similar to a
9 program or an activity described in clauses (A) through (F)
10 that is first authorized by the commissioner.

11 **Sec. 6. The issuance of a funding agreement:**

12 (1) constitutes an activity necessary, convenient, or expedient
13 to the business of a life insurance company under IC 27-1-7-2;

14 (2) is not insurance under IC 27-1-5-1;

15 (3) is not a security (as defined in IC 23-2-1-1(k)); and

16 (4) does not constitute gross premium for taxation purposes
17 under IC 27-1-18-2.

18 **Sec. 7. An amount may not be guaranteed or credited under a
19 funding agreement except:**

20 (1) upon reasonable assumptions as to investment income and
21 expenses; and

22 (2) on a basis equitable to all holders of funding agreements of
23 a given class.

24 **Sec. 8. An amount paid to a life insurance company and proceeds
25 applied to amounts paid under optional modes of settlement under
26 a funding agreement may be allocated by the insurer to one (1) or
27 more segregated asset accounts in the manner described in Class
28 1(c) of IC 27-1-5-1.**

29 **Sec. 9. The commissioner may establish reasonable conditions or
30 adopt rules under IC 4-22-2 regarding:**

31 (1) reserve amounts to be maintained by a life insurance
32 company for funding agreements;

33 (2) accounting and reporting of funds credited under funding
34 agreements; and

35 (3) other matters regarding funding agreements the
36 commissioner considers necessary, proper, and advisable.

37 **Sec. 10. Notwithstanding any other provision of law:**

38 (1) the commissioner has the sole authority to regulate the
39 issuance and sale of funding agreements;

40 (2) a funding agreement is not considered a covered policy
41 under IC 27-8-8-1(a); and

42 (3) a claim for payments under a funding agreement must be
43 treated as a loss claim described in Class 2 of IC 27-9-3-40.

44 **SECTION 19. IC 27-1-13-11 IS AMENDED TO READ AS
45 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. At all such
46 meetings of the governing body held at Indianapolis, Indiana, as set out
47 in section 10 of this chapter, any aggrieved policyholder, ~~agent,~~
48 **insurance producer**, company, representative, or any other aggrieved
49 person may appear before such meeting to have complaints heard in
50 full, and it shall be the duty of such rating bureau to rectify such
51 conditions as are justly complained of in such manner as is reasonably**

1 possible.

2 SECTION 20. IC 27-1-20-30 IS AMENDED TO READ AS
 3 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 30. (a) No company
 4 acting through its officers or members, attorney-in-fact, or by any other
 5 party, no officer of a company acting on ~~his~~ **the officer's** own behalf
 6 and no insurance ~~agent, producer,~~ broker, or solicitor, personally or by
 7 any other party, shall offer, promise, allow, give, set off or pay, directly
 8 or indirectly, any rebate of or part of the premium payable on a policy,
 9 or any ~~agent's insurance producer's~~ commission thereon, or earnings,
 10 profits, dividends or other benefits founded, arising, accruing, or to
 11 accrue thereon or therefrom, or any special advantage in date of policy
 12 or age of issue, or any paid employment or contract for services of any
 13 kind, or any other valuable consideration or inducement, to or for
 14 insurance on any risk in this state, now or hereafter to be written, or for
 15 or upon any renewal of any such insurance, which is not specified in
 16 the policy contract of insurance, or offer, promise, give, option, sell or
 17 purchase any stocks, bonds, securities, or property, or any dividends or
 18 profits accruing or to accrue thereon, or other thing of value whatsoever
 19 as inducement to insurance or in connection therewith, or any renewal
 20 thereof, which is not specified in the policy. Nothing in this section
 21 shall prevent a company which transacts industrial life insurance on a
 22 weekly payment plan from returning to policyholders who have made
 23 a premium payment for a period of at least one (1) year directly to the
 24 company at its home or district office a percentage of premium which
 25 the company would otherwise have paid for the weekly collection of
 26 such premium, nor shall this section be construed to prevent the taking
 27 of a bona fide obligation, with legal interest, in payment of any
 28 premium.

29 (b) No insured person or party or applicant for insurance shall
 30 directly or indirectly, receive or accept, or agree to receive or accept,
 31 any rebate of premium or of any part thereof, or all or any part of any
 32 ~~agent's insurance producer's~~ or broker's commission thereon, or any
 33 favor or advantage, or share in any benefit to accrue under any policy
 34 of insurance, or any valuable consideration or inducement, other than
 35 such as are specified in the policy.

36 SECTION 21. IC 27-1-22-2.5, AS AMENDED BY P.L.132-2001,
 37 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2003]: Sec. 2.5. (a) As used in this chapter, "exempt
 39 commercial policyholder" means an entity that:

- 40 (1) makes written certification to the entity's insurer on a form
- 41 prescribed by the department that the entity is an exempt
- 42 commercial policyholder;
- 43 (2) has purchased the policy of insurance through an insurance
- 44 ~~agent producer~~ licensed under IC 27-1-15.6 or IC 27-1-15.8; and
- 45 (3) meets any three (3) of the following criteria:
- 46 (A) Has a net worth of more than twenty-five million dollars
- 47 (\$25,000,000) at the time the policy of insurance is issued.
- 48 (B) Has a net revenue or sales of more than fifty million dollars
- 49 (\$50,000,000) in the preceding fiscal year.
- 50 (C) Has more than twenty-five (25) employees per individual
- 51 company or fifty (50) employees per holding company aggregate

at the time the policy of insurance is issued.

(D) Has aggregate annual commercial insurance premiums, excluding any worker's compensation and professional liability insurance premiums, of more than seventy-five thousand dollars (\$75,000) in the preceding fiscal year.

(E) Is a nonprofit or a public entity with an annual budget of at least twenty-five million dollars (\$25,000,000) or assets of at least twenty-five million dollars (\$25,000,000) in the preceding fiscal year.

(F) Procures commercial insurance with the services of a risk manager.

An entity meets the written certification requirement under subdivision (1) if the entity provides a copy of a certification previously submitted under subdivision (1) and if there has been no significant material change in the entity's status.

(b) As used in this chapter, "risk manager" means a person qualified to assess an exempt commercial policyholder's insurance needs and analyze and negotiate a policy of insurance on behalf of an exempt commercial policyholder. A risk manager may be:

(1) a full-time employee of an exempt commercial policyholder who is qualified through education and experience or training and experience; or

(2) a person retained by an exempt commercial policyholder who holds a professional designation relevant to the type of insurance to be purchased by the exempt commercial policyholder.

SECTION 22. IC 27-1-22-4, AS AMENDED BY P.L.268-1999, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Every insurer shall file with the commissioner every manual of classifications, rules, and rates, every rating schedule, every rating plan, and every modification of any of the foregoing which it proposes to use.

(b) The following types of insurance are exempt from the requirements of subsections (a) and (j):

(1) Inland marine risks, which by general custom of the business are not written according to manual rates or rating plans.

(2) Insurance, other than workers compensation insurance or professional liability insurance, issued to exempt commercial policyholders.

(c) Every such filing shall indicate the character and extent of the coverage contemplated and shall be accompanied by the information upon which the filer supports such filing.

(d) The information furnished in support of a filing may include:

(1) the experience and judgment of the insurer or rating organization making the filing;

(2) its interpretation of any statistical data it relies upon;

(3) the experience of other insurers or rating organizations; or

(4) any other relevant factors.

The commissioner shall have the right to request any additional relevant information. A filing and any supporting information shall be open to public inspection as soon as stamped "filed" within a reasonable time after receipt by the commissioner, and copies may be

1 obtained by any person on request and upon payment of a reasonable
2 charge therefor.

3 (e) Filings shall become effective upon the date of filing by delivery
4 or upon date of mailing by registered mail to the commissioner, or on
5 a later date specified in the filing.

6 (f) Specific inland marine rates on risks specially rated, made by a
7 rating organization, shall be filed with the commissioner.

8 (g) Any insurer may satisfy its obligation to make any such filings by
9 becoming a member of, or a subscriber to, a licensed rating
10 organization which makes such filings and by authorizing the
11 commissioner to accept such filings on its behalf, provided that nothing
12 contained in this chapter shall be construed as requiring any insurer to
13 become a member of or a subscriber to any rating organization or as
14 requiring any member or subscriber to authorize the commissioner to
15 accept such filings on its behalf.

16 (h) Every insurer which is a member of or a subscriber to a rating
17 organization shall be deemed to have authorized the commissioner to
18 accept on its behalf all filings made by the rating organization which
19 are within the scope of its membership or subscribership, provided:

20 (1) that any subscriber may withdraw or terminate such
21 authorization, either generally or for individual filings, by written
22 notice to the commissioner and to the rating organization and may
23 then make its own independent filings for any kinds of insurance,
24 or subdivisions, or classes of risks, or parts or combinations of any
25 of the foregoing, with respect to which it has withdrawn or
26 terminated such authorization, or may request the rating
27 organization, within its discretion, to make any such filing on an
28 agency basis solely on behalf of the requesting subscriber; and

29 (2) that any member may proceed in the same manner as a
30 subscriber unless the rating organization shall have adopted a rule,
31 with the approval of the commissioner:

32 (A) requiring a member, before making an independent filing,
33 first to request the rating organization to make such filing on its
34 behalf and requiring the rating organization, within thirty (30)
35 days after receipt of such request, either:

36 (i) to make such filing as a rating organization filing;

37 (ii) to make such filing on an agency basis solely on behalf of
38 the requesting member; or

39 (iii) to decline the request of such member; and

40 (B) excluding from membership any insurer which elects to
41 make any filing wholly independently of the rating organization.

42 (i) Under such rules as ~~he~~ **the commissioner** shall adopt, the
43 commissioner may, by written order, suspend or modify the
44 requirement of filing as to any kinds of insurance, or subdivision, or
45 classes of risk, or parts or combinations of any of the foregoing, the
46 rates for which can not practicably be filed before they are used. Such
47 orders and rules shall be made known to insurers and rating
48 organizations affected thereby. The commissioner may make such
49 examination as ~~he~~ **the commissioner** may deem advisable to ascertain
50 whether any rates affected by such order are excessive, inadequate, or
51 unfairly discriminatory.

(j) Upon the written application of the insured, stating ~~his~~ **the insured's** reasons therefor, filed with the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

(k) An insurer shall not make or issue a policy or contract except in accordance with filings which are in effect for that insurer or in accordance with the provisions of this chapter. Subject to the provisions of section 6 of this chapter, any rates, rating plans, rules, classifications, or systems in effect on May 31, 1967, shall be continued in effect until withdrawn by the insurer or rating organization which filed them.

(l) The commissioner shall have the right to make an investigation and to examine the pertinent files and records of any insurer, insurance ~~agent, producer,~~ or insured in order to ascertain compliance with any filing for rate or coverage which is in effect. ~~He~~ **The commissioner** shall have the right to set up procedures necessary to eliminate noncompliance, whether on an individual policy, or because of a system of applying charges or discounts which results in failure to comply with such filing.

(m) The department may adopt rules to:

- (1) implement the exemption under subsection (b);
- (2) impose disclosure requirements the commissioner determines are necessary to adequately protect exempt commercial policyholders; and
- (3) establish the form of the report required by subsection (n).

(n) Each insurer who issues insurance to an exempt commercial policyholder shall file an annual report with the department by February 1 of each year. The annual report may not disclose the identity of an exempt commercial policyholder and must include only the following information regarding each exempt commercial policyholder:

- (1) The account number, policy number, or other number used by the insurer to identify the insured.
- (2) The amount of aggregate annual commercial premium.
- (3) The inception date and expiration date of commercial insurance coverage provided by the insurer.
- (4) The criteria in section 2.5(a)(3) of this chapter used to establish the entity as an exempt commercial policyholder.

(o) The annual report filed under subsection (n) must be accompanied by the fee prescribed by IC 27-1-3-15(e). For purposes of calculating the required fee, each policy purchased by an exempt commercial policyholder shall be considered a product filing under IC 27-1-3-15(e).

SECTION 23. IC 27-1-22-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Upon ~~his own~~ **the commissioner's** motion, or upon written request by any insured affected thereby or by any licensed insurance ~~agent producer~~ or broker, if such request is made in good faith and states reasonable grounds, the commissioner, if ~~he~~ **the commissioner** shall have reason to believe that any filing is not in compliance with the applicable provisions of section 3 of this chapter, or in the case of an alleged

violation of section 6 of the chapter if ~~he~~ **the commissioner** finds on the basis of the information on file with the department that there has been a prima facie showing of a violation of that section, shall hold a hearing upon not less than ten (10) days written notice to the rating organization or insurer which made the filing in issue, specifying the items and matters to be considered and stating in what manner and to what extent noncompliance is alleged to exist. No other matter or subject shall be considered at such hearing. Only the rating organization or insurer which made such filing and the commissioner may be parties to any hearing or to any judicial appeal resulting therefrom. Within a reasonable time, the commissioner shall notify every person making request as to ~~his~~ **the** decision as to the validity of the request and subsequently shall notify every such person of any action which may thereafter be taken with reference to such request.

(b) If, after such hearing, the commissioner finds, based upon a preponderance of the evidence adduced at such hearing and made a part of the record thereof, that such filing is not in compliance with the provisions of section 3 of this chapter, ~~he~~ **the commissioner** shall immediately issue a written order to the parties specifying in detail in what respects and upon what evidence such noncompliance exists and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Said order shall not affect any contract policy made or issued prior to the expiration of the period set forth in said order.

(c) If after such hearing the commissioner finds that such filing does not violate the provisions of section 3 of this chapter, ~~he~~ **the commissioner** shall immediately issue a written order to the parties dismissing the proceedings.

(d) The finding and order of the commissioner shall be made within ninety (90) days after the close of such hearing or within such reasonable time extensions as may be fixed by the commissioner.

(e) No manual of classifications, rule, rate, rating schedule, rating plan, or any modification of any of the foregoing which establishes standards for measuring variations in hazards or expense provisions, or both, which has been filed pursuant to section 4 of this chapter shall be disapproved if the rates produced thereby meet the requirements of section 3 of this chapter.

(f) All actions of the commissioner under this chapter and all appeals from ~~his~~ **the commissioner's** action shall be governed by IC 4-21.5, except where a different specific provision is made in this chapter.

SECTION 24. IC 27-1-22-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) When a filing or deviation involving a rate adjustment depends upon a change in the relationship between the proposed rates and the anticipated production expense portion thereof from the relationship anticipated under any rates previously filed and currently in effect for the company or rating organization involved, such filing or deviation shall be subject to the provisions of subsection (b).

(b) Each filing or deviation subject to this section shall be on file for a waiting period of twenty (20) days before it becomes effective. If within such waiting period or after hearing as provided in this section,

the commissioner finds that the filing or deviation does not meet the requirements of this chapter, ~~he~~ **the commissioner** shall send to the insurer or rating organization which made the filing or to the insurer which filed the deviation written notice of disapproval specifying therein in what respects the filing or deviation fails to meet the requirements of this chapter and stating that the same shall not become effective. Such filing or deviation shall be deemed to meet the requirements of this act unless disapproved:

(1) within such waiting period; or

(2) if a hearing has been called and written notice thereof given by the commissioner during such waiting period, then within ten (10) days after the date of commencement of such hearing.

Upon ~~his~~ **the commissioner's** own motion, or upon timely written request by any ~~agent~~ **insurance producer** or broker of the company or companies to which such filing or deviation is applicable, if such request is in good faith and states reasonable grounds, the commissioner may at any time within the waiting period call a hearing upon not less than ten (10) nor more than fifteen (15) days written notice to the company or rating organization making the filing or to the company filing the deviation. Within ten (10) days after the commencement of such hearing, the commissioner shall in writing either approve such filing or deviation or shall disapprove the same as provided in this section.

SECTION 25. IC 27-1-22-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. No insurer, broker, or ~~agent~~ **insurance producer** shall knowingly charge, demand, or receive a premium for any policy of insurance except in accordance with the provisions of this chapter. No insurer or employee thereof, and no broker or ~~agent~~ **insurance producer** shall pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit, or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in applicable filings. No insured named in any policy of insurance shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement. Nothing in this section shall be construed as prohibiting the payment of, nor permitting the regulation of the payment of, commissions or other compensation to duly licensed ~~agents~~ **insurance producers** and brokers, nor as prohibiting, or permitting the regulation of, any insurer from allowing or returning to its participating policyholders or members, dividends or savings.

SECTION 26. IC 27-1-22-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. Nothing in this chapter abridges or restricts the freedom of contract of insurers, ~~agents~~, **insurance producers**, or brokers with reference to the amount of commission to be paid to ~~agents~~ **insurance producers** or brokers by insurers, and such payments are expressly authorized.

SECTION 27. IC 27-1-25-1, AS AMENDED BY P.L.132-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

(a) "Administrator", except as provided in section 7.5 of this chapter, means a person who collects charges or premiums from, or who adjusts or settles claims on, residents of Indiana in connection with life or health coverage or annuities, whether provided for by an insurer or a self-funded plan. The term "administrator" does not include the following persons:

(1) An employer for its employees or for the employees of a subsidiary or affiliated corporation of the employer.

(2) A union for its members.

(3) An insurer, including:

(A) an insurer operating a health maintenance organization or a limited service health maintenance organization; and

(B) the sales representative of an insurer operating a health maintenance organization or a limited service health maintenance organization when that sales representative is licensed in Indiana and when it is engaged in the performance of its duties as the sales representative.

(4) A life or health insurance ~~agent~~ **producer** licensed under IC 27-1-15.6 whose activities are limited exclusively to the sale of insurance.

(5) A creditor for its debtors regarding insurance covering a debt between them.

(6) A trust established under 29 U.S.C. 186 and the trustees, agents, and employees acting pursuant to that trust.

(7) A trust that is exempt from taxation under Section 501(a) of the Internal Revenue Code and:

(A) the trustees and employees acting pursuant to that trust; or

(B) a custodian and the agents and employees of the custodian acting pursuant to a custodian account that meets the requirements of Section 401(f) of the Internal Revenue Code.

(8) A financial institution that is subject to supervision or examination by federal or state banking authorities.

(9) A credit card issuing company that advances for and collects premiums or charges from its credit cardholders as long as that company does not adjust or settle claims.

(10) An individual who adjusts or settles claims in the normal course of ~~his~~ **the individual's** practice or employment as an attorney at law, and who does not collect charges or premiums in connection with life or health insurance coverage or annuities.

(11) A health maintenance organization that has a certificate of authority issued under IC 27-13.

(12) A limited service health maintenance organization that has a certificate of authority issued under IC 27-13.

(b) "Certificate of registration" refers to the certificate required by section 11 of this chapter.

(c) "Commissioner" refers to the commissioner of insurance.

(d) "Financial institution" means a bank, savings association, credit union, or any other institution regulated under IC 28 or federal law.

(e) "Insurer" means a person who obtains a certificate of authority under IC 27-1-3-20.

(f) "Person" means an individual, a corporation, a partnership, a limited liability company, or an unincorporated association.

(g) "Self-funded plan" means a plan for providing benefits for life, health, or annuity coverage by a person who is not an insurer.

SECTION 28. IC 27-1-27-1, AS AMENDED BY HEA 1692-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The term "public adjuster" shall include every individual or corporation who, or which, for compensation or reward, renders advice or assistance to the insured in the adjustment of a claim or claims for loss or damages under any policy of insurance covering real or personal property and any person or corporation who, or which, advertises, solicits business, or holds itself out to the public as an adjuster of such claims. However, no public adjuster shall:

(1) act in any manner in relation to claims for personal injury or automobile property damage; or

(2) bind the insured in the settlement of claims.

(b) This chapter does not apply to, and the following are not included in the term "public adjuster":

(1) An attorney at law admitted to practice in the state of Indiana who adjusts insurance losses in the course of the practice of ~~his~~ **the attorney's** profession.

(2) An officer, regular salaried employee, or other representative of an insurer or of an attorney in fact of any reciprocal insurer of Lloyd's underwriter licensed to do business in Indiana who adjusts losses arising under ~~his~~ **an** employer's or principal's own policies.

(3) An adjustment bureau or association owned and maintained by insurers to adjust or investigate losses of such insurers, or any regular salaried employee who devotes substantially all ~~of his~~ **the employee's** time to the business of such bureau or association.

(4) Any licensed ~~agent~~ **insurance producer** or an authorized insurer or officer or employee of the same who adjusts losses for such insurer, and any ~~agent~~ **insurance producer** or representative of a farm mutual insurance company operating under the farm mutual insurance laws of this state on behalf of an insurer.

(5) Any independent adjuster representing an insurer.

SECTION 29. IC 27-1-27-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Each applicant for a certificate of authority as a public adjuster shall file with the commissioner of insurance ~~his, or its,~~ **an** application therefor on forms furnished by the commissioner of insurance, which application shall set forth:

(1) the name and address of the applicant, and if the applicant be a corporation, the name and address of each of its officers and directors;

(2) whether the person is applying as a resident or nonresident;

(3) whether any license or certificate of authority as ~~agent,~~ **insurance producer**, broker, public adjuster, or independent adjuster has been issued previously by the commissioner of insurance of the state of Indiana or by the insurance department of

any other state, any territorial possession of the United States, or any foreign country to the applicant; and

(4) the business or employment in which the applicant has been engaged for the five (5) years next preceding the date of the application, and the name and address of such business and the name or names and addresses of ~~his~~ **the applicant's** employer or employers.

(b) An application for any certificate of authority must be signed and verified under oath by the applicant.

(c) An annual fee of fifty dollars (\$50) is to be paid to the commissioner of insurance by the applicant for such public adjuster's certificate of authority before the application or annual renewal thereof is granted. However, the commissioner may, by rule adopted under IC 4-22-2, change the amount of the fee to an amount necessary to pay all of the direct and indirect costs of administering this chapter. Fees collected shall be used by the department to administer this chapter.

(d) Every public adjuster's certificate of authority shall expire on December 31 of the calendar year in which the same shall have been issued, but if an application for the renewal of such certificate shall have been filed with the commissioner of insurance before January 1 of any year, the certificate of authority sought to be renewed shall continue in full force and effect until the issuance by the commissioner of insurance of the new certificate applied for or until five (5) days after the commissioner of insurance shall have refused to issue such new certificate and shall have served notice of such refusal on the applicant therefor. Service of such notice shall be made by registered mail directed to the applicant at the place of business specified in the application.

(e) The applicant shall file with the commissioner of insurance a surety bond in a sum equal to ten thousand dollars (\$10,000) payable to the state of Indiana and conditioned on the principal's faithful performance and discharge of ~~his~~ **the principal's** duties under this title and under any rule of the department of insurance. The bond must be renewed annually.

SECTION 30. IC 27-1-34-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) A reinsurer may not issue a policy of insurance to a multiple employer welfare arrangement that does not have a certificate of registration from the department.

(b) An ~~agent~~ **insurance producer** licensed by the department may not solicit, offer, or provide coverage through a multiple employer welfare arrangement that does not have a certificate of registration from the department.

(c) A reinsurer or ~~agent~~ **insurance producer** who knows or reasonably should have known that the arrangement does not have a current certificate of registration is liable for any claims for benefits that are due and unpaid.

SECTION 31. IC 27-1-36-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 46. (a) The comparison of an insurer's total adjusted capital to any of its RBC levels is a regulatory tool that may indicate the need for possible corrective action

with respect to the insurer and it is not intended as a means to rank insurers generally. Except as provided in subsection (b), the action of an insurer, an ~~agent~~, **insurance producer**, a broker, or other person engaged in any manner in the insurance business, in:

(1) making, publishing, disseminating, circulating, or placing before the public; or

(2) causing, directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way;

an advertisement, an announcement, or a statement containing an assertion, a representation, or a statement regarding the RBC level of an insurer or any component derived in the calculation of the RBC level of an insurer is misleading and is prohibited.

(b) If:

(1) a materially false statement with respect to the comparison regarding an insurer's total adjusted capital to an RBC level of the insurer or an inappropriate comparison of any other amount to the insurer's RBC levels is published in any written publication; and

(2) the insurer is able to demonstrate to the commissioner with substantial proof the:

(A) falsity; or

(B) inappropriateness;

of the statement;

the insurer may publish an announcement in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

SECTION 32. IC 27-2-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. As used in this chapter, "independent ~~agent~~" **insurance producer**" means an ~~agent~~ **insurance producer** who:

(1) represents an insurer in the sale of insurance as an independent contractor rather than as an employee; and

(2) is not limited to representing:

(A) one (1) insurer; or

(B) several insurers that are under common management.

SECTION 33. IC 27-2-17-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) An insurance company that issues property or casualty insurance shall not discriminate in the appointment of an independent ~~agent~~ **insurance producer** on the basis of race, color, national origin, or gender.

(b) Except as provided in subsection (c), the department has exclusive jurisdiction to investigate any complaints of discrimination in the appointment of independent ~~agents~~ **insurance producers** in violation of subsection (a).

(c) If the commissioner of the department determines after a hearing that an insurance company has violated subsection (a), the commissioner may order one (1) of the following remedies:

(1) Payment of a civil penalty of not more than two thousand dollars (\$2,000) for each violation.

(2) Suspension or revocation of the insurance company's certificate of authority if the commissioner determines that the violation was willful or wanton and that similar violations have been committed by that company with a frequency that constitutes a general business practice.

(3) Any other remedy agreed to by the department and the insurance company.

(d) Any determination made by the commissioner under this section is subject to IC 4-21.5.

(e) Findings of the department under this section may not be considered as evidence in any civil action other than an appeal as provided under IC 4-21.5.

SECTION 34. IC 27-4-1-2, AS AMENDED BY HEA 1692-2003, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. When and as used in this chapter:

(a) The term "person" shall mean any individual, corporation, company including any farm mutual insurance company, association, partnership, firm, reciprocal exchange, inter-insurer, Lloyds insurers, society, fraternal benefit society, lodge, order, council, corps, and any other association or legal entity, engaged in the business of insurance, including but not in limitation of the foregoing, ~~agents,~~ **insurance producers,** brokers, solicitors, advisors, auditors, and adjusters.

(b) "Department" shall mean the department of insurance of this state created and defined as a department in the state government of the state of Indiana by IC 27-1.

(c) "Commissioner" shall mean the insurance commissioner of this state appointed pursuant to, and on and in whom the powers, duties, management, and control of the department are conferred and vested by, the provisions of IC 27-1.

SECTION 35. IC 27-4-1-4, AS AMENDED BY P.L.130-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender ~~his~~ **the policyholder's** insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of ~~his~~ **the person's** insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class

1 involving essentially the same hazards in the amount of
 2 premium, policy fees, assessments, or rates charged or made for
 3 any policy or contract of accident or health insurance or in the
 4 benefits payable thereunder, or in any of the terms or conditions
 5 of such contract, or in any other manner whatever; however, in
 6 determining the class, consideration may be given to the nature
 7 of the risk, the plan of insurance, the actual or expected expense
 8 of conducting the business, or any other relevant factor.

9 (C) Excessive or inadequate charges for premiums, policy fees,
 10 assessments, or rates, or making or permitting any unfair
 11 discrimination between persons of the same class involving
 12 essentially the same hazards, in the amount of premiums, policy
 13 fees, assessments, or rates charged or made for:

14 (i) policies or contracts of reinsurance or joint reinsurance, or
 15 abstract and title insurance;

16 (ii) policies or contracts of insurance against loss or damage to
 17 aircraft, or against liability arising out of the ownership,
 18 maintenance, or use of any aircraft, or of vessels or craft, their
 19 cargoes, marine builders' risks, marine protection and
 20 indemnity, or other risks commonly insured under marine, as
 21 distinguished from inland marine, insurance; or

22 (iii) policies or contracts of any other kind or kinds of
 23 insurance whatsoever.

24 However, nothing contained in clause (C) shall be construed to
 25 apply to any of the kinds of insurance referred to in clauses (A) and
 26 (B) nor to reinsurance in relation to such kinds of insurance.
 27 Nothing in clause (A), (B), or (C) shall be construed as making or
 28 permitting any excessive, inadequate, or unfairly discriminatory
 29 charge or rate or any charge or rate determined by the department
 30 or commissioner to meet the requirements of any other insurance
 31 rate regulatory law of this state.

32 (8) Except as otherwise expressly provided by law, knowingly
 33 permitting or offering to make or making any contract or policy of
 34 insurance of any kind or kinds whatsoever, including but not in
 35 limitation, life annuities, or agreement as to such contract or policy
 36 other than as plainly expressed in such contract or policy issued
 37 thereon, or paying or allowing, or giving or offering to pay, allow,
 38 or give, directly or indirectly, as inducement to such insurance, or
 39 annuity, any rebate of premiums payable on the contract, or any
 40 special favor or advantage in the dividends, savings, or other
 41 benefits thereon, or any valuable consideration or inducement
 42 whatever not specified in the contract or policy; or giving, or
 43 selling, or purchasing or offering to give, sell, or purchase as
 44 inducement to such insurance or annuity or in connection
 45 therewith, any stocks, bonds, or other securities of any insurance
 46 company or other corporation, association, limited liability
 47 company, or partnership, or any dividends, savings, or profits
 48 accrued thereon, or anything of value whatsoever not specified in
 49 the contract. Nothing in this subdivision and subdivision (7) shall
 50 be construed as including within the definition of discrimination or
 51 rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or ~~agent~~ **insurance producer** thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed ~~agent~~ **insurance producer** thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, ~~agent~~, **insurance producer**, or solicitor duly licensed under the laws of this state, but such broker, ~~agent~~, **insurance producer**, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance ~~agent~~ **producer** or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of ~~its or his~~ **the** right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of ~~agents~~ **insurance producers** or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or

personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, ~~agent~~, **insurance producer**, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon of ~~his, her, or its~~ **the** right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

(25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning the resolution of an appealed grievance decision.

SECTION 36. IC 27-4-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. It is hereby declared unlawful for any two (2) or more insurance companies writing the same class, or classes, of risks and doing business in this state, directly or indirectly, to enter into any arrangement, contract, agreement, understanding, combination or association to require, coerce or induce any ~~agent~~ **insurance producer** or representative of any two (2) or more of such insurance companies within the state of Indiana to refrain from representing other such insurance companies, or to afford any advantage to any ~~such agent~~ **insurance producer** to refrain from representing other such insurance companies or to impose upon ~~such agent~~ **the insurance producer** any disadvantage by reason of ~~his~~ **the insurance producer's** acting as representative of other such insurance companies.

SECTION 37. IC 27-4-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) It ~~shall be~~ **is** unlawful for any insurance ~~agent~~ **producer** representing or acting for two (2) or more insurance companies writing the same class or classes, of risks to enter, either directly or indirectly, into any agreement, arrangement, contract or understanding with one (1) or more of such companies that ~~he~~ **the insurance producer** will refrain from representing any other like company or companies, and it ~~shall be~~ **is** unlawful for any such insurance company, not having a contract requiring an ~~agent~~ **insurance producer** to represent ~~it~~ **the insurance company** alone, in any manner to require, coerce, or induce any ~~agent~~ **insurance producer** to refrain from representing any other like company or companies.

~~Provided, however, That this shall not be construed to~~ (b) **This section does not** prevent any insurance company or ~~agent~~ **insurance producer** from at any time entering into a bona fide contract whereby

1 ~~such agent~~ **an insurance producer** agrees that ~~he the insurance~~
2 **producer** will thereafter represent a single company exclusively.

3 SECTION 38. IC 27-4-3-3 IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2003]: Sec. 3. For violation of any provision of
5 this chapter, the license of the offending company or ~~agent insurance~~
6 **producer** to transact the business of insurance within the state of
7 Indiana shall be suspended for a period of three (3) years. Whenever
8 information of any such violation shall come to the knowledge of the
9 commissioner of insurance, ~~he the commissioner~~ shall issue an order
10 fixing a day certain, not more than thirty (30) nor less than twenty (20)
11 days from the making thereof, upon which the offender shall appear
12 and show cause why such penalty should not be enforced, such order
13 specifying with reasonable certainty the violation charged, and if, after
14 hearing, the commissioner shall determine that the company or ~~agent~~
15 **insurance producer** is guilty of such violation, ~~he the commissioner~~
16 shall forthwith suspend the license of the offender for a period of three
17 (3) years. Such hearing shall be public, and at any such hearing any
18 person or corporation having lodged information of such violation with
19 the commissioner shall be entitled to be present and submit evidence.
20 Within thirty (30) days after the suspension of any such license, the
21 ~~agent insurance producer~~ or company whose license has been
22 suspended may appeal from the ruling of the commissioner of
23 insurance to the circuit or superior court of the county in which ~~such~~
24 **agent the insurance producer** resides or in which such company has
25 its principal place of business, and if such company be a foreign
26 insurance company then such appeal may be taken by such company
27 to the circuit or superior court of Marion County.

28 SECTION 39. IC 27-5-3-3, AS AMENDED BY P.L.132-2001,
29 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2003]: Sec. 3. (a) With respect to writing, making, or taking
31 the kinds of insurance specifically excepted in IC 27-5-2-1(1)(B) and
32 with respect to writing, making, or taking liability insurance, worker's
33 compensation, fidelity, and surety insurance such farmers' mutual
34 insurance company shall be subject to the following statutes, anything
35 in IC 27-1 or IC 27-5-1 to the contrary notwithstanding:

36 (1) IC 27-1-3, IC 27-9, IC 27-1-5-3, IC 27-1-6-15, IC 27-1-7-14,
37 IC 27-1-7-15, IC 27-1-7-16, IC 27-6-1.1-2, IC 27-1-7-21,
38 IC 27-1-7-22, IC 27-1-7-23, IC 27-1-9, IC 27-1-13-3, IC 27-1-13-4,
39 IC 27-1-13-6, IC 27-1-13-7, IC 27-1-13-8, IC 27-1-13-9,
40 IC 27-1-20-1, IC 27-1-20-4, IC 27-1-20-6, IC 27-1-20-9,
41 IC 27-1-20-10, IC 27-1-20-11, IC 27-1-20-14, IC 27-1-20-19,
42 IC 27-1-20-20, IC 27-1-20-21, IC 27-1-20-23, ~~IC 27-1-20-24~~, and
43 IC 27-1-20-30.

44 (2) All of IC 27-1-22.

45 (3) IC 27-1-13-7.

46 (4) All of IC 27-7-2.

47 (b) An ~~agent insurance producer~~ representing a farmers' mutual
48 insurance company with respect to insurance authorized to be written
49 by this chapter and not authorized before March 13, 1953, to be written
50 by a farmers' mutual insurance company shall comply with
51 IC 27-1-15.6.

1 SECTION 40. IC 27-5-4-2, AS AMENDED BY P.L.132-2001,
 2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2003]: Sec. 2. Any such farmers' mutual insurance company
 4 may elect to become subject to the provisions of IC 27-1 as provided
 5 by IC 27-1-11-1 and thereafter may avail itself of all rights, privileges,
 6 and franchises provided by IC 27-1 in accordance with IC 27-1.
 7 Nothing contained in IC 27-1 shall affect or invalidate any policies
 8 issued or bound by such company and in full force and effect at the
 9 time said election becomes effective, but any such policy or contract of
 10 insurance and the rights and obligations thereunder may continue in
 11 full force and effect until expiration or termination; provided, that not
 12 later than five (5) years following the effective date of said election, all
 13 such policies or contracts of insurance shall be subject to the provisions
 14 of IC 27-1. Any **agent insurance producer** or representative of such
 15 company who is exempt from the provisions of IC 27-1-15.6 at the time
 16 said election becomes effective may continue to represent such
 17 company only within the scope of such existing representation without
 18 compliance with the provisions of IC 27-1-15.6 for a period not to
 19 exceed one (1) year following the effective date of said election, but
 20 thereafter such representation shall be subject to compliance with
 21 IC 27-1-15.6. Such election provided for in this section shall become
 22 effective upon the date of issuance of the new certificate of authority
 23 pursuant to IC 27-1-11-7.

24 SECTION 41. IC 27-6-8-9 IS AMENDED TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The commissioner shall:

26 (i) Notify the association of the existence of an insolvent insurer
 27 not later than three (3) working days after ~~he~~ **the commissioner**
 28 receives an order of liquidation.

29 (ii) Upon request of the board of directors, provide the association
 30 with a statement of the net direct written premiums of each
 31 member insurer.

32 (b) The commissioner may:

33 (i) Require that the association notify the insureds of the insolvent
 34 insurer and any other interested parties of the order of liquidation
 35 and of their rights under this chapter. This notification shall be by
 36 mail at their last known address, where available, but if sufficient
 37 information for notification by mail is not available, notice by
 38 publication in a newspaper of general circulation in all counties in
 39 which the insolvent insurer transacted insurance business shall be
 40 sufficient.

41 (ii) Require each **agent insurance producer** of the insolvent
 42 insurer to give prompt written notice by first class mail of such
 43 insolvency and the rights of the insured under this chapter to each
 44 insured of the insolvent insurer for whom ~~he~~ **the insurance**
 45 **producer** is **agent insurance producer** of record, at such insured's
 46 last known address.

47 (iii) Suspend or revoke, after notice and hearing, the certificate of
 48 authority to transact insurance in this state of any member insurer
 49 which fails to pay an assessment when due or fails to comply with
 50 the plan of operation. As an alternative, the commissioner may
 51 levy a fine on any member insurer which fails to pay an assessment

when due. The fine shall not exceed five percent (5%) of the unpaid assessment per month, except that no fine shall be less than one hundred dollars (\$100) per month.

(iv) Revoke the designation of any servicing facility if ~~he~~ **the commissioner** finds claims are being handled unsatisfactorily.

(v) Any final action or order of the commissioner under this chapter shall be subject to judicial review in a court of competent jurisdiction.

SECTION 42. IC 27-6-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (Effect of Paid Claims) (a) Any person recovering under this chapter shall be deemed to have assigned ~~his~~ **the person's** rights under the policy to the association to the extent of ~~his~~ **the person's** recovery from the association. Every insured or claimant seeking the protection of this chapter shall cooperate with the association to the same extent as the person would have been required to cooperate with the insolvent insurer. The association shall have no cause of action against the insured of the insolvent insurer for any sums it has paid out except such causes of action as the insolvent insurer would have had if such sums had been paid by the insolvent insurer. In the case of an insolvent insurer operating on a plan with assessment liability, payments of claims of the association shall not operate to reduce the liability of insureds to the receiver, liquidator, or statutory successor for unpaid assessments previously made and no assessment shall be thereafter made for the purpose of reimbursing the association.

(b) The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by settlements of covered claims by the association or a similar organization in another state functioning pursuant to IC 27-6-8-8(d). The court having jurisdiction shall grant such claims priority equal to that which the claimant would have been entitled in the absence of this chapter against the assets of the insolvent insurer. The expenses of the association or similar organization in handling claims shall be accorded the same priority as the liquidator's expenses.

(c) The association shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the association and estimates of anticipated claims on the association which shall preserve the rights of the association against the assets of the insolvent insurer.

(d) The association shall have a right to recover from the ~~agent~~ **insurance producer** of record any part of the paid claim for unearned premium that represents unearned commission to the ~~agent~~ **insurance producer**.

SECTION 43. IC 27-6-8-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. No person, including an insurer, ~~agent~~ **insurance producer**, or affiliate of an insurer, shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in any newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station or television station,

or in any other way, any advertisement, announcement or statement which uses the existence of the insurance guaranty association of this state for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by the Indiana insurance guaranty association law. ~~Provided~~, However, this section does not apply to Indiana insurance guaranty association or to any other entity which does not sell or solicit insurance.

SECTION 44. IC 27-6-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. As used in this chapter, "licensed producer" means an ~~agent~~, **insurance producer**, broker, or reinsurance intermediary licensed pursuant to the applicable provision of the insurance law.

SECTION 45. IC 27-7-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. No notice of cancellation of a policy to which section 4 of this chapter applies shall be effective unless mailed or delivered by the insurer to the named insured at least twenty (20) days prior to the effective date of cancellation; provided, however, that where cancellation is for nonpayment of premium at least ten (10) days notice of cancellation accompanied by the reason therefor shall be given. In the event such policy was procured by an ~~agent~~ **insurance producer** duly licensed by the state of Indiana, notice of intent to cancel shall be mailed or delivered to ~~such agent~~ **the insurance producer** at least ten (10) days prior to such mailing or delivery to the named insured unless such notice of intent is or has been waived in writing by ~~such agent~~ **the insurance producer**. Unless the reason accompanies or is included in the notice of cancellation, the notice of cancellation shall state or be accompanied by a statement that upon written request of the named insured, mailed or delivered to the insurer not less than fifteen (15) days prior to the effective date of cancellation, the insurer will specify the reason for such cancellation. This section shall not apply to nonrenewal.

SECTION 46. IC 27-7-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least twenty (20) days' advance notice of its intention not to renew. In the event such policy was procured by an ~~agent~~ **insurance producer** duly licensed by the state of Indiana notice of intent not to renew shall be mailed or delivered to ~~such agent~~ **the insurance producer** at least ten (10) days prior to such mailing or delivery to the named insured unless such notice of intent is or has been waived in writing by ~~such agent~~ **the insurance producer**.

(b) This section shall not apply:

- (a) (1) if the insurer has manifested its willingness to renew; ~~nor or~~
- (b) (2) in case of nonpayment of premium.

~~Provided; That;~~ **However**, notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other insurance policy with respect to any automobile designated in both policies.

(c) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective

1 date of such renewal.

2 SECTION 47. IC 27-7-6-10 IS AMENDED TO READ AS
 3 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. There shall be no
 4 liability on the part of and no cause of action of any nature shall arise
 5 against the commissioner of insurance or against any insurer, its
 6 authorized representative, its ~~agents~~, **insurance producers**, its
 7 employees, or any firm, person, limited liability company, or
 8 corporation furnishing to the insurer information as to reasons for
 9 cancellation, for any statement made by any of them in any written
 10 notice of cancellation, or in any other communication, oral or written
 11 specifying the reasons for cancellation, or the providing of information
 12 pertaining thereto, or for statements made or evidence submitted at any
 13 hearings conducted in connection therewith.

14 SECTION 48. IC 27-7-9-9, AS AMENDED BY P.L.182-2001,
 15 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2003]: Sec. 9. (a) An insurer making the type of insurance
 17 described in Class 3(a) of IC 27-1-5-1 shall enter into a reinsurance
 18 agreement with the commissioner. The reinsurance agreement must
 19 include the following terms:

20 (1) The insurer agrees to cede to the commissioner one hundred
 21 percent (100%) of any mine subsidence coverage issued under this
 22 chapter, subject to a maximum limit of two hundred thousand
 23 dollars (\$200,000) per structure insured.

24 (2) The insurer shall collect the premiums for mine subsidence
 25 insurance, may retain a ceding commission in an amount set by the
 26 commissioner, and shall remit the remainder of the premiums to
 27 the commissioner for deposit in the mine subsidence insurance
 28 fund.

29 (3) The insurer, in consideration of the ceding commission, shall:
 30 (A) undertake the adjustment of losses under the mine
 31 subsidence coverage issued under this chapter by the insurer,
 32 with technical assistance provided under section 9.5 of this
 33 chapter; and

34 (B) pay the taxes and absorb all other expenses necessarily
 35 incurred by the insurer in the sale of policies and the
 36 administration of the mine subsidence insurance program under
 37 this chapter.

38 (4) The commissioner shall reimburse the insurer from the mine
 39 subsidence insurance fund for all amounts paid to policyholders for
 40 mine subsidence insurance claims.

41 (5) The insurer is not required to pay a claim for any mine
 42 subsidence loss insured under this chapter if the amount available
 43 in the mine subsidence insurance fund is insufficient to reimburse
 44 the insurer for the claim.

45 (b) The determination of the commissioner as to the amount of the
 46 ceding commission that an insurer may retain under subsection (a)(2)
 47 must be based on a consideration of the insurer's reasonable
 48 administrative costs (including ~~agents'~~ **insurance producers'**
 49 commissions).

50 SECTION 49. IC 27-7-10-15 IS AMENDED TO READ AS
 51 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) A risk retention

group is liable for the payment of premium taxes and taxes on premiums of direct business for risks resident or located within Indiana, and shall report to the commissioner of this state the net premiums written for risks resident or located within Indiana. A risk retention group that is chartered and licensed in a state other than Indiana is subject to taxation, and any applicable fines and penalties related thereto, on the same basis as a foreign admitted insurer.

(b) A licensed **agent insurance producer** who is utilized under section 30 of this chapter in soliciting, negotiating, or procuring liability insurance from a risk retention group that is chartered and licensed in a state other than Indiana shall report to the commissioner the premiums for direct business for risks resident or located within Indiana that the **agent insurance producer** has placed with or on behalf of a risk retention group that is not chartered in Indiana.

(c) A licensed **agent insurance producer** who is utilized under section 30 of this chapter in soliciting, negotiating, or procuring liability insurance from a risk retention group that is chartered and licensed in a state other than Indiana shall keep a complete and separate record of all policies procured from each such risk retention group. The record kept under this subsection must be open to examination by the commissioner and must, for each policy and each kind of insurance provided, include the following information:

- (1) The limit of liability.
- (2) The time period covered.
- (3) The effective date.
- (4) The name of the risk retention group that issued the policy.
- (5) The gross premium charged.
- (6) The amount of return premiums, if any.

SECTION 50. IC 27-7-10-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) A purchasing group may not purchase insurance from a risk retention group that is not chartered in a state or from an insurer not admitted in the state in which the purchasing group is located, unless the purchase is effected through a licensed **agent insurance producer** or broker acting under the surplus lines laws and regulations of that state.

(b) A purchasing group that obtains liability insurance from an insurer that is not admitted in Indiana or from a risk retention group shall inform each of the members of the group who have a risk resident or located in Indiana that the risk is not protected by an insurance insolvency guaranty fund in Indiana and that the risk retention group or insurer may not be subject to all insurance laws and rules of Indiana.

(c) No purchasing group may purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole. However, coverage may provide for a deductible or self-insured retention applicable to individual members of the purchasing group.

(d) Purchases of insurance by purchasing groups are subject to the same standards regarding aggregate limits that are applicable to all purchases of group insurance.

SECTION 51. IC 27-7-10-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. Premium taxes and taxes on premiums paid for coverage of risks resident or located in

1 Indiana by a purchasing group or any member of a purchasing group
2 shall be:

3 (1) imposed at the same rate and subject to the same interest, fines,
4 and penalties that apply to premium taxes and taxes on premiums
5 paid for similar coverage from a similar insurance source by other
6 insureds; and

7 (2) paid first by the insurance source, and if not by the insurance
8 source, then by the **agent insurance producer** or broker for the
9 purchasing group, and if not by the **agent insurance producer** or
10 broker, then by the purchasing group, and if not by the purchasing
11 group, then by each of its members.

12 SECTION 52. IC 27-7-10-30, AS AMENDED BY P.L.132-2001,
13 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2003]: Sec. 30. No individual, firm, association, limited
15 liability company, or corporation may act or aid in any manner in
16 soliciting, negotiating, or procuring liability insurance in Indiana from
17 a risk retention group unless the individual, firm, association, or
18 corporation is licensed as an insurance **agent producer** under
19 IC 27-1-15.6.

20 SECTION 53. IC 27-7-10-31, AS AMENDED BY P.L.132-2001,
21 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2003]: Sec. 31. (a) No individual, firm, association, or
23 corporation may act or aid in any manner in soliciting, negotiating, or
24 procuring liability insurance in Indiana for a purchasing group from an
25 authorized insurer or a risk retention group chartered in a state unless
26 the individual, firm, association, or corporation is licensed as an
27 insurance **agent producer** under IC 27-1-15.6.

28 (b) No individual, firm, association, or corporation may act or aid in
29 any manner in soliciting, negotiating, or procuring liability insurance
30 coverage in Indiana for any member of a purchasing group under a
31 purchasing group's policy unless the individual, firm, association, or
32 corporation is licensed as an insurance **agent producer** under
33 IC 27-1-15.6.

34 (c) No individual, firm, association, or corporation may act or aid in
35 any manner in soliciting, negotiating, or procuring liability insurance
36 from an insurer not authorized to do business in Indiana on behalf of a
37 purchasing group located in Indiana unless the individual, firm,
38 association, or corporation is licensed as a surplus lines **agent**
39 **producer** under IC 27-1-15.8.

40 SECTION 54. IC 27-7-10-32, AS AMENDED BY P.L.132-2001,
41 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2003]: Sec. 32. (a) For purposes of acting as an **agent**
43 **insurance producer** for a risk retention group or purchasing group
44 under section 30 or 31 of this chapter, the requirement of residence in
45 Indiana does not apply.

46 (b) Every individual, firm, association, or corporation licensed under
47 IC 27-1-15.6, in regard to business placed with risk retention groups or
48 written through a purchasing group, shall inform each prospective
49 insured of the provisions of the notice required by section 18 of this
50 chapter in the case of a risk retention group and section 27(c) of this
51 chapter in the case of a purchasing group.

SECTION 55. IC 27-7-12-3, AS ADDED BY P.L.203-2001,
SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2003]: Sec. 3. (a) Notice of cancellation of property insurance
coverage by an insurer must:

- (1) be in writing;
- (2) be delivered or mailed to the named insured at the last known
address of the named insured;
- (3) state the effective date of the cancellation; and
- (4) upon request of the named insured, be accompanied by a
written explanation of the specific reasons for the cancellation.

(b) An insurer shall provide written notice of cancellation to the
named insured at least:

- (1) ten (10) days before canceling a policy, if the cancellation is for
nonpayment of a premium;
- (2) twenty (20) days before canceling a policy, if the cancellation
occurs more than sixty (60) days after the date of issuance of the
policy; and
- (3) ten (10) days before canceling a policy, if the cancellation
occurs not more than sixty (60) days after the date of issuance of
the policy.

(c) If the policy was procured by an independent ~~agent~~ **insurance
producer** licensed in Indiana, the insurer shall deliver or mail notice
of cancellation to the ~~agent~~ **insurance producer** not less than ten (10)
days before the insurer delivers or mails the notice to the named
insured, unless the obligation to notify the ~~agent~~ **insurance producer**
is waived in writing by the ~~agent~~ **insurance producer**.

SECTION 56. IC 27-7-12-4, AS ADDED BY P.L.203-2001,
SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2003]: Sec. 4. (a) Notice of nonrenewal by an insurer must:

- (1) be in writing;
- (2) be delivered or mailed to the named insured at the last known
address of the named insured;
- (3) state the insurer's intention not to renew the policy upon
expiration of the current policy period;
- (4) upon request of the named insured, be accompanied by a
written explanation of the specific reasons for the nonrenewal; and
- (5) be provided to the named insured at least twenty (20) days
before the expiration of the current policy period.

(b) If the policy was procured by an independent ~~agent~~ **insurance
producer** licensed in Indiana, the insurer shall deliver or mail notice
of nonrenewal to the ~~agent~~ **insurance producer** not less than ten (10)
days before the insurer delivers or mails the notice to the named
insured, unless the obligation to notify the ~~agent~~ **insurance producer**
is waived in writing by the ~~agent~~ **insurance producer**.

(c) If an insurer mails or delivers to an insured a renewal notice, bill,
certificate, or policy indicating the insurer's willingness to renew a
policy and the insured does not respond, the insurer is not required to
provide to the insured notice of intention not to renew.

SECTION 57. IC 27-7-12-9, AS ADDED BY P.L.203-2001,
SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2003]: Sec. 9. (a) The following persons are immune from

civil liability for any communication giving notice of or specifying the reasons for a termination or for any statement made in connection with an attempt to discover or verify the existence of conditions that would be a reason for a termination under this chapter:

- (1) Employees of the department of insurance.
- (2) An insurer or its authorized representative, agent, or employee.
- (3) A licensed insurance ~~agent~~; **producer**.
- (4) A person furnishing information to an insurer as to reasons for a termination.

(b) This section does not apply to statements made in bad faith with malice in fact.

SECTION 58. IC 27-8-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. The provisions of this chapter shall in no way apply to any secret or fraternal society or lodge or association which, under the supervision of a grand or supreme lodge, secures membership through the lodge system exclusively, and provides insurance to its members, nor to insurance organizations of a purely benevolent character which pay no commission nor employ any paid ~~agent~~; **insurance producer**, organized under the laws of this or any other state.

SECTION 59. IC 27-8-3-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. The fees to be paid by each such corporation, association, or society to the insurance commissioner for the authority to such corporation, association, or society, and its ~~agents~~ **insurance producers** under the license granted by him to each corporation, association, or society, to transact business in the state of Indiana shall be as follows:

For filing copy of charter or articles of incorporation, twenty-five dollars (\$25).

For filing each annual statement, twenty dollars (\$20).

For issuing certificate of authority or license to company, corporation, association or society, one dollar (\$1).

For issuing license to each ~~agent~~; **insurance producer**, one dollar (\$1).

For affixing seal and certifying to any paper, one dollar (\$1).

For renewal of license, each such corporation, association, or society shall file with the commissioner its annual statement, for which it shall pay the sum of twenty dollars (\$20).

~~For issuing license to each agent, one dollar (\$1):~~

~~For affixing seal and certifying any paper, one dollar (\$1):~~

For the privilege of transacting business in this state, a foreign or alien company, association, or society, admitted and licensed under this chapter, shall pay an annual tax upon premiums or assessments derived from business written within this state, such tax to be as defined and determined under IC 27-1-18-2, which is declared to be applicable in its terms and provisions to such a company, association, or society; provided also, that when any other state or country shall impose any obligations in excess of those imposed by this chapter upon any such corporation, association, or society of this state, a like obligation shall be imposed on similar corporations and their agents of such state or country doing business in this state; and provided also, that such

corporation, association, or society, in transacting business in this state, shall be subject only to the provisions of this chapter.

SECTION 60. IC 27-8-5-3, AS AMENDED BY P.L.162-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Except as provided in subsection (c), each policy delivered or issued for delivery to any person in this state shall contain the provisions specified in this subsection in the words in which the same appear in this section. However, the insurer may, at its option, substitute for one (1) or more of the provisions corresponding provisions of different wording approved by the commissioner that are in each instance no less favorable in any respect to the insured or the beneficiary. The provisions shall be preceded individually by the caption appearing in this subsection or, at the option of the insurer, by appropriate individual or group captions or subcaptions as the commissioner may approve.

(1) A provision as follows: ENTIRE CONTRACT; CHANGES: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No ~~agent~~ **insurance producer** has authority to change this policy or to waive any of its provisions.

(2) A provision as follows: TIME LIMIT ON CERTAIN DEFENSES: (A) After two (2) years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two (2) year period.

The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy of denial of a claim during such initial two (2) year period, nor to limit the application of subsection (b), (1), (2), (3), (4), and (5) in the event of misstatement with respect to age or occupation or other insurance.

A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium:

(1) until at least age fifty (50); or

(2) in the case of a policy issued after forty-four (44) years of age, for at least five (5) years from its date of issue;

may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be omitted at the insurer's option) under the caption "INCONTESTABLE": After this policy has been in force for a period of two (2) years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application.

(B) No claim for loss incurred or disability (as defined in the policy) commencing after two (2) years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition, not excluded from coverage by name or specific description effective on the date of loss, had existed prior to the effective date of coverage of this policy.

(3) A provision as follows: GRACE PERIOD: A grace period of (insert a number not less than "7" for weekly premium policies, "10" for monthly premium policies and "31" for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force.

A policy in which the insurer reserves the right to refuse renewal shall have, at the beginning of the above provision: "Unless not less than thirty (30) days prior to the premium due date the insurer has delivered to the insured or has mailed to the insured's last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted."

Each policy in which the insurer reserves the right to refuse renewal on an individual basis shall provide, in substance, in a provision of the policy, in an endorsement on the policy, or in a rider attached to the policy, that subject to the right to terminate the policy upon non-payment of premium when due, such right to refuse renewal shall not be exercised before the renewal date occurring on, or after and nearest, each anniversary, or in the case of lapse and reinstatement at the renewal date occurring on, or after and nearest, each anniversary of the last reinstatement, and that any refusal or renewal shall be without prejudice to any claim originating while the policy is in force. The preceding sentence shall not apply to accident insurance only policies.

(4) A provision as follows: REINSTATEMENT: If any renewal premium is not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy. Provided, that if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten (10) days after such date. In all other respects the insured and insurer shall have the same rights as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty (60) days prior to the date of reinstatement.

The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums:

- (1) until at least fifty (50) years of age; or
- (2) in the case of a policy issued after forty-four (44) years of age, for at least five (5) years from its date of issue.

(5) A provision as follows: **NOTICE OF CLAIM:** Written notice of claim must be given to the insurer within twenty (20) days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at _____ (insert the location of such office as the insurer may designate for the purpose), or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer.

In a policy providing a loss-of-time benefit which may be payable for at least two (2) years, an insurer may insert the following between the first and second sentences of the above provision:

Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two (2) years, the insured shall, at least once in every six (6) months after having given notice of claim, give to the insurer notice of continuance of said disability, except in the event of legal incapacity. The period of six (6) months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insurer's right to any indemnity which would otherwise have accrued during the period of six (6) months preceding the date on which such notice is actually given.

(6) A provision as follows: **CLAIM FORMS:** The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within fifteen (15) days after the giving of such notice, the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character, and the extent of the loss for which claim is made.

(7) A provision as follows: **PROOFS OF LOSS:** Written proof of loss must be furnished to the insurer at its said office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within ninety (90) days after the termination of the period for which the insurer is liable and in case of claim for any other loss within ninety (90) days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one (1) year from the time proof is otherwise required.

(8) A provision as follows: **TIME OF PAYMENT OF CLAIMS:** Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment will be paid:

(1) immediately upon receipt of due written proof of such loss; or

(2) in accordance with IC 27-8-5.7;

whichever is more favorable to the policyholder. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid _____ (insert period for

1 payment which must not be less frequently than monthly) and any
2 balance remaining unpaid upon the termination of liability will be paid
3 immediately upon receipt of due written proof. This provision must
4 reflect compliance with IC 27-8-5.7.

5 (9) A provision as follows: PAYMENT OF CLAIMS: Indemnity for
6 loss of life will be payable in accordance with the beneficiary
7 designation and the provisions respecting such payment which may be
8 prescribed herein and effective at the time of payment. If no such
9 designation or provision is then effective, such indemnity shall be
10 payable to the estate of the insured. Any other accrued indemnities
11 unpaid at the insured's death may, at the option of the insurer, be paid
12 either to such beneficiary or to such estate. All other indemnities will
13 be payable to the insured.

14 The following provisions, or either of them, may be included with the
15 foregoing provision at the option of the insurer:

16 If any indemnity of this policy shall be payable to the estate of the
17 insured, or to an insured or beneficiary who is a minor or otherwise not
18 competent to give a valid release, the insurer may pay such indemnity,
19 up to an amount not exceeding \$ _____ (insert an amount which
20 shall not exceed \$1,000), to any relative by blood or connection by
21 marriage of the insured or beneficiary who is deemed by the insurer to
22 be equitably entitled thereto. Any payment made by the insurer in good
23 faith pursuant to this provision shall fully discharge the insurer to the
24 extent of such payment.

25 Subject to any written direction of the insured in the application or
26 otherwise all or a portion of any indemnities provided by this policy on
27 account of hospital, nursing, medical, or surgical services may, at the
28 insurer's option and unless the insured requests otherwise in writing not
29 later than the time of filing proofs of such loss, be paid directly to the
30 hospital or person rendering such services; but it is not required that the
31 service be rendered by a particular hospital or person.

32 For the purposes of this section a "minor" is a person under the age
33 of eighteen (18) years. A person eighteen (18) years of age or over is
34 competent, insofar as the person's age is concerned, to sign a valid
35 release.

36 (10) A provision as follows: PHYSICAL EXAMINATIONS AND
37 AUTOPSY: The insurer at its own expense shall have the right and
38 opportunity to examine the person of the insured when and as often as
39 it may reasonably require during the pendency of a claim hereunder
40 and to make an autopsy in case of death where it is not forbidden by
41 law.

42 (11) A provision as follows: LEGAL ACTIONS: No action at law or
43 in equity shall be brought to recover on this policy prior to the
44 expiration of sixty (60) days after written proof of loss has been
45 furnished in accordance with the requirements of this policy. No such
46 action shall be brought after the expiration of three (3) years after the
47 time written proof of loss is required to be furnished.

48 (12) A provision as follows: CHANGE OF BENEFICIARY: Unless
49 the insured makes an irrevocable designation of beneficiary, the right
50 to change of beneficiary is reserved to the insured and the consent of
51 the beneficiary or beneficiaries shall not be requisite to surrender or

1 assignment of this policy or to any change of beneficiary or
 2 beneficiaries, or to any other changes in this policy.

3 The first clause of this provision, relating to the irrevocable
 4 designation of beneficiary, may be omitted at the insurer's option.

5 (13) A provision as follows: **GUARANTEED RENEWABILITY:** In
 6 compliance with the federal Health Insurance Portability and
 7 Accountability Act of 1996 (P.L.104-191), renewability is guaranteed.

8 (b) Except as provided in subsection (c), no policy delivered or
 9 issued for delivery to any person in Indiana shall contain provisions
 10 respecting the matters set forth below unless the provisions are in the
 11 words in which the provisions appear in this section. However, the
 12 insurer may use, instead of any provision, a corresponding provision of
 13 different wording approved by the commissioner which is not less
 14 favorable in any respect to the insured or the beneficiary. Any
 15 substitute provision contained in the policy shall be preceded
 16 individually by the appropriate caption appearing in this subsection or,
 17 at the option of the insurer, by appropriate individual or group captions
 18 or subcaptions as the commissioner may approve.

19 (1) A provision as follows: **CHANGE OF OCCUPATION:** If the
 20 insured be injured or contract sickness after having changed the
 21 insured's occupation to one classified by the insurer as more hazardous
 22 than that stated in this policy or while doing for compensation anything
 23 pertaining to an occupation so classified, the insurer will pay only such
 24 portion of the indemnities provided in this policy as the premium paid
 25 would have purchased at the rates and within the limits fixed by the
 26 insurer for such more hazardous occupation. If the insured changes the
 27 insured's occupation to one classified by the insurer as less hazardous
 28 than that stated in this policy, the insurer, upon receipt of proof of such
 29 change of occupation, will reduce the premium rate accordingly, and
 30 will return the excess pro rata unearned premium from the date of
 31 change of occupation or from the policy anniversary date immediately
 32 preceding receipt of such proof, whichever is the more recent. In
 33 applying this provision, the classification of occupational risk and the
 34 premium rates shall be such as have been last filed by the insurer prior
 35 to the occurrence of the loss for which the insurer is liable or prior to
 36 date of proof of change in occupation with the state official having
 37 supervision of insurance in the state where the insured resided at the
 38 time this policy was issued; but if such filing was not required, then the
 39 classification of occupational risk and the premium rates shall be those
 40 last made effective by the insurer in such state prior to the occurrence
 41 of the loss or prior to the date of proof of change in occupation.

42 (2) A provision as follows: **MISSTATEMENT OF AGE:** If the age
 43 of the insured has been misstated, all amounts payable under this policy
 44 shall be such as the premium paid would have purchased at the correct
 45 age.

46 (3) A provision as follows: **OTHER INSURANCE IN THIS**
 47 **INSURER:** If an accident or sickness or accident and sickness policy
 48 or policies previously issued by the insurer to the insured are in force
 49 concurrently herewith, making the aggregate indemnity for _____
 50 (insert type of coverage or coverages) in excess of \$ _____ (insert
 51 maximum limit of indemnity or indemnities) the excess insurance shall

1 be void and all premiums paid for such excess shall be returned to the
 2 insured or to the insured's estate. Or, instead of that provision:
 3 Insurance effective at any one (1) time on the insured under a like
 4 policy or policies, in this insurer is limited to the one (1) such policy
 5 elected by the insured, the insured's beneficiary or the insured's estate,
 6 as the case may be, and the insurer will return all premiums paid for all
 7 other such policies.

8 (4) A provision as follows: **INSURANCE WITH OTHER INSURER:**
 9 If there is other valid coverage, not with this insurer, providing benefits
 10 for the same loss on a provision of service basis or on an expense
 11 incurred basis and of which this insurer has not been given written
 12 notice prior to the occurrence or commencement of loss, the only
 13 liability under any expense incurred coverage of this policy shall be for
 14 such proportion of the loss as the amount which would otherwise have
 15 been payable hereunder plus the total of the like amounts under all
 16 such other valid coverages for the same loss of which this insurer had
 17 notice bears to the total like amounts under all valid coverages for such
 18 loss, and for the return of such portion of the premiums paid as shall
 19 exceed the pro-rata portion of the amount so determined. For the
 20 purpose of applying this provision when other coverage is on a
 21 provision of service basis, the "like amount" of such other coverage
 22 shall be taken as the amount which the services rendered would have
 23 cost in the absence of such coverage.

24 If the foregoing policy provision is included in a policy which also
 25 contains the next following policy provision there shall be added to the
 26 caption of the foregoing provision the phrase "EXPENSE INCURRED
 27 BENEFITS". The insurer may, at its option, include in this provision
 28 a definition of "other valid coverage," approved as to form by the
 29 commissioner, which definition shall be limited in subject matter to
 30 coverage provided by organizations subject to regulation by insurance
 31 law or by insurance authorities of this or any other state of the United
 32 States or any province of Canada, and by hospital or medical service
 33 organizations, and to any other coverage the inclusion of which may be
 34 approved by the commissioner. In the absence of such definition such
 35 term shall not include group insurance, automobile medical payments
 36 insurance, or coverage provided by hospital or medical service
 37 organizations or by union welfare plans or employer or employee
 38 benefit organizations. For the purpose of applying the foregoing policy
 39 provision with respect to any insured, any amount of benefit provided
 40 for such insured pursuant to any compulsory benefit statute (including
 41 any worker's compensation or employer's liability statute) whether
 42 provided by a governmental agency or otherwise shall in all cases be
 43 deemed to be "other valid coverage" of which the insurer has had
 44 notice. In applying the foregoing policy provision no third party
 45 liability coverage shall be included as "other valid coverage".

46 (5) A provision as follows: **INSURANCE WITH OTHER**
 47 **INSURERS:** If there is other valid coverage, not with this insurer,
 48 providing benefits for the same loss on other than an expense incurred
 49 basis and of which this insurer has not been given written notice prior
 50 to the occurrence or commencement of loss, the only liability for such
 51 benefits under this policy shall be for such proportion of the

1 indemnities otherwise provided hereunder for such loss as the like
 2 indemnities of which the insurer had notice (including the indemnities
 3 under this policy) bear to the total amount of all like indemnities for
 4 such loss, and for the return of such portion of the premium paid as
 5 shall exceed the pro-rata portion for the indemnities thus determined.
 6 If the foregoing policy provision is included in a policy which also
 7 contains the next preceding policy provision, there shall be added to the
 8 caption of the foregoing provision the phrase "-OTHER BENEFITS".
 9 The insurer may, at its option, include in this provision a definition of
 10 "other valid coverage," approved as to form by the commissioner,
 11 which definition shall be limited in subject matter to coverage provided
 12 by organizations subject to regulation by insurance law or by insurance
 13 authorities of this or any other state of the United States or any
 14 province of Canada, and to any other coverage to the inclusion of
 15 which may be approved by the commissioner. In the absence of such
 16 definition such term shall not include group insurance or benefits
 17 provided by union welfare plans or by employer or employee benefit
 18 organizations. For the purpose of applying the foregoing policy
 19 provision with respect to any insured, any amount of benefit provided
 20 for such insured pursuant to any compulsory benefit statute (including
 21 any worker's compensation or employer's liability statute) whether
 22 provided by a governmental agency or otherwise shall in all cases be
 23 deemed to be "other valid coverage" of which the insurer has had
 24 notice. In applying the foregoing policy provision no third party
 25 liability coverage shall be included as "other valid coverage".

26 (6) A provision as follows: RELATION OF EARNINGS TO
 27 INSURANCE: If the total monthly amount of loss of time benefits
 28 promised for the same loss under all valid loss of time coverage upon
 29 the insured, whether payable on a weekly or monthly basis, shall
 30 exceed the monthly earnings of the insured at the time disability
 31 commenced or the insured's average monthly earnings for the period of
 32 two (2) years immediately preceding a disability for which claim is
 33 made, whichever is the greater, the insurer will be liable only for such
 34 proportionate amount of such benefits under this policy as the amount
 35 of such monthly earnings or such average monthly earnings of the
 36 insured bears to the total amount of monthly benefits for the same loss
 37 under all such coverage upon the insured at the time such disability
 38 commences and for the return of such part of the premiums paid during
 39 such two (2) years as shall exceed the pro rata amount of the premiums
 40 for the benefits actually paid; but this shall not operate to reduce the
 41 total monthly amount of benefits payable under all such coverage upon
 42 the insured below the sum of two hundred dollars (\$200) or the sum of
 43 the monthly benefits specified in such coverages, whichever is the
 44 lesser, nor shall it operate to reduce benefits other than those payable
 45 for loss of time.

46 The foregoing policy provision may be inserted only in a policy
 47 which the insured has the right to continue in force subject to its terms
 48 by the timely payment of premiums:

- 49 (1) until at least fifty (50) years of age; or
- 50 (2) in the case of a policy issued after forty-four (44) years of age,
 51 for at least five (5) years from its date of issue.

1 The insurer may, at its option, include in this provision a definition of
 2 "valid loss of time coverage", approved as to form by the
 3 commissioner, which definition shall be limited in subject matter to
 4 coverage provided by governmental agencies or by organizations
 5 subject to regulation by insurance law or by insurance authorities of
 6 this or any other state of the United States or any province of Canada,
 7 or to any other coverage the inclusion of which may be approved by the
 8 commissioner or any combination of such coverages. In the absence of
 9 such definition the term shall not include any coverage provided for the
 10 insured pursuant to any compulsory benefit statute (including any
 11 worker's compensation or employer's liability statute), or benefits
 12 provided by union welfare plans or by employer or employee benefit
 13 organizations.

14 (7) A provision as follows: UNPAID PREMIUM: Upon the payment
 15 of a claim under this policy, any premium then due and unpaid or
 16 covered by any note or written order may be deducted therefrom.

17 (8) A provision as follows: CONFORMITY WITH STATE
 18 STATUTES: Any provision of this policy which, on its effective date,
 19 is in conflict with the statutes of the state in which the insured resides
 20 on such date is hereby amended to conform to the minimum
 21 requirements of such statutes.

22 (9) A provision as follows: ILLEGAL OCCUPATION: The insurer
 23 shall not be liable for any loss to which a contributing cause was the
 24 insured's commission of or attempt to commit a felony or to which a
 25 contributing cause was the insured's being engaged in an illegal
 26 occupation.

27 (10) A provision as follows: INTOXICANTS AND NARCOTICS:
 28 The insurer shall not be liable for any loss sustained or contracted in
 29 consequence of the insured's being intoxicated or under the influence
 30 of any narcotic unless administered on the advice of a physician.

31 (c) If any provision of this section is in whole or in part inapplicable
 32 to or inconsistent with the coverage provided by a particular form of
 33 policy the insurer, with the approval of the commissioner, shall omit
 34 from such policy any inapplicable provision or part of a provision, and
 35 shall modify any inconsistent provision or part of the provision in such
 36 manner as to make the provision as contained in the policy consistent
 37 with the coverage provided by the policy.

38 (d) The provisions which are the subject of subsections (a) and (b),
 39 or any corresponding provisions which are used in lieu thereof in
 40 accordance with such subsections, shall be printed in the consecutive
 41 order of the provisions in such subsections or, at the option of the
 42 insurer, any such provision may appear as a unit in any part of the
 43 policy, with other provisions to which it may be logically related,
 44 provided the resulting policy shall not be in whole or in part
 45 unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a
 46 person to whom the policy is offered, delivered, or issued.

47 (e) "Insured", as used in this chapter, shall not be construed as
 48 preventing a person other than the insured with a proper insurable
 49 interest from making application for and owning a policy covering the
 50 insured or from being entitled under such a policy to any indemnities,
 51 benefits, and rights provided therein.

(f)(1) Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this state, may contain any provision which is not less favorable to the insured or the beneficiary than is provided in this chapter and which is prescribed or required by the law of the state under which the insurer is organized.

(f)(2) Any policy of a domestic insurer may, when issued for delivery in any other state or country, contain any provision permitted or required by the laws of such other state or country.

(g) The commissioner may make reasonable rules under IC 4-22-2 concerning the procedure for the filing or submission of policies subject to this chapter as are necessary, proper, or advisable to the administration of this chapter. This provision shall not abridge any other authority granted the commissioner by law.

SECTION 61. IC 27-8-5.7-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. (a) Beginning on the effective date of the date referred to in Section 262 of the federal Health Insurance Portability and Accountability Act (42 U.S.C. 1320d-4), an insurer may request from the commissioner appointed under IC 27-1-1-2 a waiver from the requirements of this chapter that apply to claims filed on paper.**

(b) The commissioner may grant a waiver under this section if, not more than six (6) months after the effective date described in subsection (a), the requesting insurer experiences an increase of the lesser of:

(1) ten thousand (10,000); or

(2) at least twenty percent (20%);

in the volume of claims filed on paper.

(c) A waiver granted under this section is effective for a set period determined by the commissioner.

(d) This section expires December 31, 2005.

SECTION 62. IC 27-8-8-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. A person, including an insurer, ~~agent~~ **insurance producer**, or affiliate of an insurer shall not place before the public, directly or indirectly, an announcement or statement that uses the existence of the association for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by this chapter. This section does not apply to the association or any other entity that does not sell or solicit insurance.

SECTION 63. IC 27-8-10-2.1, AS AMENDED BY P.L.192-2002(ss), SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.1. (a) There is established a nonprofit legal entity to be referred to as the Indiana comprehensive health insurance association, which must assure that health insurance is made available throughout the year to each eligible Indiana resident applying to the association for coverage. All carriers, health maintenance organizations, limited service health maintenance organizations, and self-insurers providing health insurance or health care services in Indiana must be members of the association. The association shall operate under a plan of operation established and approved under subsection (c) and shall exercise its powers through a

1 board of directors established under this section.

2 (b) The board of directors of the association consists of seven (7)
3 members whose principal residence is in Indiana selected as follows:

4 (1) Three (3) members to be appointed by the commissioner from
5 the members of the association, one (1) of which must be a
6 representative of a health maintenance organization.

7 (2) Two (2) members to be appointed by the commissioner shall be
8 consumers representing policyholders.

9 (3) Two (2) members shall be the state budget director or designee
10 and the commissioner of the department of insurance or designee.

11 The commissioner shall appoint the chairman of the board, and the
12 board shall elect a secretary from its membership. The term of office
13 of each appointed member is three (3) years, subject to eligibility for
14 reappointment. Members of the board who are not state employees may
15 be reimbursed from the association's funds for expenses incurred in
16 attending meetings. The board shall meet at least semiannually, with
17 the first meeting to be held not later than May 15 of each year.

18 (c) The association shall submit to the commissioner a plan of
19 operation for the association and any amendments to the plan necessary
20 or suitable to assure the fair, reasonable, and equitable administration
21 of the association. The plan of operation becomes effective upon
22 approval in writing by the commissioner consistent with the date on
23 which the coverage under this chapter must be made available. The
24 commissioner shall, after notice and hearing, approve the plan of
25 operation if the plan is determined to be suitable to assure the fair,
26 reasonable, and equitable administration of the association and
27 provides for the sharing of association losses on an equitable,
28 proportionate basis among the member carriers, health maintenance
29 organizations, limited service health maintenance organizations, and
30 self-insurers. If the association fails to submit a suitable plan of
31 operation within one hundred eighty (180) days after the appointment
32 of the board of directors, or at any time thereafter the association fails
33 to submit suitable amendments to the plan, the commissioner shall
34 adopt rules under IC 4-22-2 necessary or advisable to implement this
35 section. These rules are effective until modified by the commissioner
36 or superseded by a plan submitted by the association and approved by
37 the commissioner. The plan of operation must:

38 (1) establish procedures for the handling and accounting of assets
39 and money of the association;

40 (2) establish the amount and method of reimbursing members of
41 the board;

42 (3) establish regular times and places for meetings of the board of
43 directors;

44 (4) establish procedures for records to be kept of all financial
45 transactions, and for the annual fiscal reporting to the
46 commissioner;

47 (5) establish procedures whereby selections for the board of
48 directors will be made and submitted to the commissioner for
49 approval;

50 (6) contain additional provisions necessary or proper for the
51 execution of the powers and duties of the association; and

- 1 (7) establish procedures for the periodic advertising of the general
- 2 availability of the health insurance coverages from the association.
- 3 (d) The plan of operation may provide that any of the powers and
- 4 duties of the association be delegated to a person who will perform
- 5 functions similar to those of this association. A delegation under this
- 6 section takes effect only with the approval of both the board of
- 7 directors and the commissioner. The commissioner may not approve a
- 8 delegation unless the protections afforded to the insured are
- 9 substantially equivalent to or greater than those provided under this
- 10 chapter.
- 11 (e) The association has the general powers and authority enumerated
- 12 by this subsection in accordance with the plan of operation approved
- 13 by the commissioner under subsection (c). The association has the
- 14 general powers and authority granted under the laws of Indiana to
- 15 carriers licensed to transact the kinds of health care services or health
- 16 insurance described in section 1 of this chapter and also has the
- 17 specific authority to do the following:
- 18 (1) Enter into contracts as are necessary or proper to carry out this
- 19 chapter, subject to the approval of the commissioner.
- 20 (2) Sue or be sued, including taking any legal actions necessary or
- 21 proper for recovery of any assessments for, on behalf of, or against
- 22 participating carriers.
- 23 (3) Take legal action necessary to avoid the payment of improper
- 24 claims against the association or the coverage provided by or
- 25 through the association.
- 26 (4) Establish a medical review committee to determine the
- 27 reasonably appropriate level and extent of health care services in
- 28 each instance.
- 29 (5) Establish appropriate rates, scales of rates, rate classifications
- 30 and rating adjustments, such rates not to be unreasonable in
- 31 relation to the coverage provided and the reasonable operational
- 32 expenses of the association.
- 33 (6) Pool risks among members.
- 34 (7) Issue policies of insurance on an indemnity or provision of
- 35 service basis providing the coverage required by this chapter.
- 36 (8) Administer separate pools, separate accounts, or other plans or
- 37 arrangements considered appropriate for separate members or
- 38 groups of members.
- 39 (9) Operate and administer any combination of plans, pools, or
- 40 other mechanisms considered appropriate to best accomplish the
- 41 fair and equitable operation of the association.
- 42 (10) Appoint from among members appropriate legal, actuarial,
- 43 and other committees as necessary to provide technical assistance
- 44 in the operation of the association, policy and other contract
- 45 design, and any other function within the authority of the
- 46 association.
- 47 (11) Hire an independent consultant.
- 48 (12) Develop a method of advising applicants of the availability of
- 49 other coverages outside the association and may promulgate a list
- 50 of health conditions the existence of which would deem an
- 51 applicant eligible without demonstrating a rejection of coverage by

one (1) carrier.

(13) Provide for the use of managed care plans for insureds, including the use of:

(A) health maintenance organizations; and

(B) preferred provider plans.

(14) Solicit bids directly from providers for coverage under this chapter.

(f) Rates for coverages issued by the association may not be unreasonable in relation to the benefits provided, the risk experience, and the reasonable expenses of providing the coverage. Separate scales of premium rates based on age apply for individual risks. Premium rates must take into consideration the extra morbidity and administration expenses, if any, for risks insured in the association. The rates for a given classification may not be more than one hundred fifty percent (150%) of the average premium rate for that class charged by the five (5) carriers with the largest premium volume in the state during the preceding calendar year. In determining the average rate of the five (5) largest carriers, the rates charged by the carriers shall be actuarially adjusted to determine the rate that would have been charged for benefits identical to those issued by the association. All rates adopted by the association must be submitted to the commissioner for approval.

(g) Following the close of the association's fiscal year, the association shall determine the net premiums, the expenses of administration, and the incurred losses for the year. Any net loss shall be assessed by the association to all members in proportion to their respective shares of total health insurance premiums, excluding premiums for Medicaid contracts with the state of Indiana, received in Indiana during the calendar year (or with paid losses in the year) coinciding with or ending during the fiscal year of the association or any other equitable basis as may be provided in the plan of operation. For self-insurers, health maintenance organizations, and limited service health maintenance organizations that are members of the association, the proportionate share of losses must be determined through the application of an equitable formula based upon claims paid, excluding claims for Medicaid contracts with the state of Indiana, or the value of services provided. In sharing losses, the association may abate or defer in any part the assessment of a member, if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. The association may also provide for interim assessments against members of the association if necessary to assure the financial capability of the association to meet the incurred or estimated claims expenses or operating expenses of the association until the association's next fiscal year is completed. Net gains, if any, must be held at interest to offset future losses or allocated to reduce future premiums. Assessments must be determined by the board members specified in subsection (b)(1), subject to final approval by the commissioner.

(h) The association shall conduct periodic audits to assure the general accuracy of the financial data submitted to the association, and the association shall have an annual audit of its operations by an independent certified public accountant.

(i) The association is subject to examination by the department of insurance under IC 27-1-3.1. The board of directors shall submit, not later than March 30 of each year, a financial report for the preceding calendar year in a form approved by the commissioner.

(j) All policy forms issued by the association must conform in substance to prototype forms developed by the association, must in all other respects conform to the requirements of this chapter, and must be filed with and approved by the commissioner before their use.

(k) The association may not issue an association policy to any individual who, on the effective date of the coverage applied for, does not meet the eligibility requirements of section 5.1 of this chapter.

(l) The association shall pay an ~~agent's~~ **insurance producer's** referral fee of twenty-five dollars (\$25) to each insurance ~~agent~~ **producer** who refers an applicant to the association if that applicant is accepted.

(m) The association and the premium collected by the association shall be exempt from the premium tax, the adjusted gross income tax, or any combination of these upon revenues or income that may be imposed by the state.

(n) Members who after July 1, 1983, during any calendar year, have paid one (1) or more assessments levied under this chapter may either:

(1) take a credit against premium taxes, adjusted gross income taxes, or any combination of these, or similar taxes upon revenues or income of member insurers that may be imposed by the state, up to the amount of the taxes due for each calendar year in which the assessments were paid and for succeeding years until the aggregate of those assessments have been offset by either credits against those taxes or refunds from the association; or

(2) any member insurer may include in the rates for premiums charged for insurance policies to which this chapter applies amounts sufficient to recoup a sum equal to the amounts paid to the association by the member less any amounts returned to the member insurer by the association, and the rates shall not be deemed excessive by virtue of including an amount reasonably calculated to recoup assessments paid by the member.

(o) The association shall provide for the option of monthly collection of premiums.

SECTION 64. IC 27-8-10-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. Before January 1, 1996, the board of directors of the association shall establish eligibility guidelines for the issuance of an association policy under this chapter to prohibit an:

(1) employer;

(2) insurance ~~agent~~; **producer**; or

(3) insurance broker;

from placing in or referring to the association an individual who works for an employer who offers employees an employee welfare benefit plan (as defined in 29 U.S.C. 1002).

SECTION 65. IC 27-8-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The insurance commissioner shall adopt rules under IC 4-22-2 establishing standards of full and fair disclosure concerning long term care insurance policies.

- 1 The standards must require disclosure of information concerning the
- 2 following:
- 3 (1) The sale of the policies.
- 4 (2) Terms of renewability.
- 5 (3) Initial and subsequent terms of eligibility.
- 6 (4) Nonduplication of coverage provisions.
- 7 (5) Coverage of dependents.
- 8 (6) Preexisting conditions.
- 9 (7) Termination of insurance coverage.
- 10 (8) Probationary periods.
- 11 (9) Limitations on coverage.
- 12 (10) Exceptions to coverage.
- 13 (11) Reductions from coverage.
- 14 (12) Elimination periods.
- 15 (13) Requirements for replacement.
- 16 (14) Recurrent conditions.
- 17 (15) Definitions of terms.
- 18 (16) Continuation or conversion of coverage.
- 19 (b) The insurance commissioner shall adopt rules under IC 4-22-2 to
- 20 establish minimum standards concerning:
- 21 (1) marketing practices;
- 22 (2) ~~agent~~ **insurance producer** continuing education;
- 23 (3) penalties; and
- 24 (4) reporting practices;
- 25 for long term care insurance.
- 26 (c) Rules adopted by the insurance commissioner under this section
- 27 must:
- 28 (1) recognize the unique, developing, and experimental nature of
- 29 long term care insurance; and
- 30 (2) where necessary or appropriate, recognize the distinctions
- 31 between group insurance policies and individual insurance
- 32 policies.
- 33 SECTION 66. IC 27-8-12-14 IS AMENDED TO READ AS
- 34 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) The insurer
- 35 shall deliver an outline of the coverage provided by an individual long
- 36 term care insurance policy to the prospective applicant at the time of
- 37 initial solicitation through means that prominently direct the attention
- 38 of the recipient to the document and the document's purpose.
- 39 (b) The commissioner shall prescribe a standard format regarding:
- 40 (1) style;
- 41 (2) arrangement;
- 42 (3) overall appearance; and
- 43 (4) content;
- 44 for an outline of coverage.
- 45 (c) An ~~agent~~ **insurance producer** who solicits a long term care
- 46 insurance policy shall deliver the outline of coverage before the
- 47 presentation of an application or enrollment form.
- 48 (d) The outline of coverage must be presented in conjunction with
- 49 any application or enrollment form when there is a direct response
- 50 solicitation of long term care insurance.
- 51 (e) An outline of coverage required under this section must include

1 the following:

2 (1) A description of the principal benefits and coverage provided
3 in the policy.

4 (2) A statement of the principal exclusions, reductions, and
5 limitations set forth in the policy.

6 (3) A statement of the policy's renewal provisions, including any
7 reservation by the insurer of a right to change premiums.

8 (4) A statement that the outline of coverage is a summary of the
9 policy issued or applied for, and that the policy should be
10 consulted to determine the exact terms of the coverage provided by
11 the policy.

12 (5) A description of the terms under which the policy may be
13 returned and the premium refunded.

14 (6) A brief description of the relationship of the cost of care and
15 benefits.

16 (7) A statement of the terms under which the policy or certificate
17 may continue or be discontinued, including any reservation in the
18 policy of the right to change the premium.

19 (8) A specific statement of the provisions for continuation or
20 conversion of group coverage.

21 SECTION 67. IC 27-8-12-18 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) As used in this
23 section, "compensation" includes pecuniary and nonpecuniary
24 remuneration of any kind relating to the sale or renewal of the policy
25 or certificate including, but not limited to, the following:

26 (1) Bonuses.

27 (2) Gifts.

28 (3) Prizes.

29 (4) Awards.

30 (5) Finders fees.

31 (b) An insurer or other entity that provides a commission or other
32 compensation to an **agent insurance producer** or other representative
33 for the sale of a long term care insurance policy may not violate the
34 following conditions:

35 (1) The amount of the first year commission or first year
36 compensation for selling or servicing the policy may not exceed
37 two hundred percent (200%) of the amount of the commission or
38 other compensation paid in the second year.

39 (2) The amount of commission or other compensation provided in
40 years after the second year must be equal to the amount provided
41 in the second year.

42 (3) A commission or other compensation must be provided each
43 year for at least five (5) years after the first year.

44 (c) If an existing long term care policy or certificate is replaced, the
45 insurer or other entity that issues the replacement policy may not
46 provide, and its **agent insurance producer** may not accept,
47 compensation in an amount greater than the renewal compensation
48 payable by the replacing insurer on renewal policies, unless the
49 benefits of the replacement policy or certificate are clearly and
50 substantially greater than the benefits under the replaced policy or
51 certificate.

(d) This section does not apply to the following:

(1) Life insurance policies and certificates.

(2) A policy or certificate that is sponsored by an employer for the benefit of:

(A) the employer's employees; or

(B) the employer's employees and their dependents.

SECTION 68. IC 27-8-12-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) In addition to any other sanction provided under this article, the commissioner may impose a civil penalty against an insurer who has violated this chapter or rules adopted under this chapter. A penalty imposed under this section must be the greater of:

(1) three (3) times the amount of the commissions paid for each policy involved in the violation; or

(2) ten thousand dollars (\$10,000).

(b) In addition to any other sanction provided under this title, the commissioner may impose a penalty against an insurance ~~agent~~ **producer** who has violated this chapter or rules adopted under this chapter. The penalty must be the greater of:

(1) up to three (3) times the amount of the commissions paid **to that insurance producer** for each policy involved in the violation;

or

(2) twenty-five hundred dollars (\$2,500).

SECTION 69. IC 27-8-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, "Medicare supplement insurance solicitation" means a meeting between an insurance ~~agent~~ **producer** and another individual at which the ~~agent~~ **insurance producer** discusses the possible issuance of a medicare supplement policy to the other individual.

SECTION 70. IC 27-8-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Following a Medicare supplement insurance solicitation, an ~~agent~~ **insurance producer** shall give the individual involved in the solicitation a receipt for materials received by the ~~agent~~ **insurance producer** as a result of the solicitation.

(b) The receipt required under subsection (a) must be dated and signed by the ~~agent~~ **insurance producer** and must set forth the following:

(1) An itemized list of the materials received by the ~~agent~~ **insurance producer**.

(2) The ~~agent's~~ **insurance producer's** name.

(3) The address and telephone number of the ~~agent's~~ **insurance producer's** office.

(c) As used in this section, "materials" includes any:

(1) document;

(2) cash;

(3) money order; or

(4) check or draft;

received by the ~~agent~~ **insurance producer**. The term does not include an application for a policy.

1 SECTION 71. IC 27-8-19.8-8.5, AS AMENDED BY P.L.132-2001,
 2 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2003]: Sec. 8.5. The following must be licensed as a ~~life~~
 4 ~~insurance agent~~ **an insurance producer with a life qualification**
 5 under ~~IC 27-1-15.6:~~ **IC 27-1-15.6-7:**

6 (1) A viatical settlement broker.

7 (2) A person who solicits, offers, or attempts to negotiate a viatical
 8 settlement contract with a viator.

9 SECTION 72. IC 27-8-28-17, AS AMENDED BY P.L.1-2002,
 10 SECTION 116, IS AMENDED TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) An insurer shall establish
 12 written policies and procedures for the timely resolution of appeals of
 13 grievance decisions. The procedures for registering and responding to
 14 oral and written appeals of grievance decisions must include the
 15 following:

16 (1) Written or oral acknowledgment of the appeal not more than
 17 five (5) business days after the appeal is filed.

18 (2) Documentation of the substance of the appeal and the actions
 19 taken.

20 (3) Investigation of the substance of the appeal, including any
 21 aspects of clinical care involved.

22 (4) Notification to the covered individual:

23 (A) of the disposition of an appeal; and

24 (B) that the covered individual may have the right to further
 25 remedies allowed by law.

26 (5) Standards for timeliness in:

27 (A) responding to an appeal; and

28 (B) providing notice to covered individuals of:

29 (i) the disposition of an appeal; and

30 (ii) the right to initiate an external grievance review under
 31 IC 27-8-29;

32 that accommodate the clinical urgency of the situation.

33 (b) In the case of an appeal of a grievance decision described in
 34 section 6(1) or 6(2) of this chapter, an insurer shall appoint a panel of
 35 one (1) or more qualified individuals to resolve an appeal. The panel
 36 must include one (1) or more individuals who:

37 (1) have knowledge of the medical condition, procedure, or
 38 treatment at issue;

39 (2) are licensed in the same profession and have a similar specialty
 40 as the provider who proposed or delivered the health care
 41 procedure, treatment, or service;

42 (3) are not involved in the matter giving rise to the appeal or in the
 43 initial investigation of the grievance; and

44 (4) do not have a direct business relationship with the covered
 45 individual or the health care provider who previously
 46 recommended the health care procedure, treatment, or service
 47 giving rise to the grievance.

48 (c) An appeal of a grievance decision must be resolved:

49 (1) as expeditiously as possible, reflecting the clinical urgency of
 50 the situation; and

51 (2) not later than forty-five (45) days after the appeal is filed.

1 **An insurer that violates this subsection commits an unfair and**
 2 **deceptive act or practice in the business of insurance under**
 3 **IC 27-4-1-4.**

4 **(d) If an insurer violates subsection (c), the insurer shall file a**
 5 **report with the department during the quarter in which the**
 6 **violation occurred concerning the insurer's compliance with**
 7 **subsection (c). The report must include the following:**

8 **(1) The number of appealed grievance decisions that were not**
 9 **resolved as required under subsection (c).**

10 **(2) The reason each appeal described in subdivision (1) was not**
 11 **resolved.**

12 ~~(d)~~ **(e) An insurer shall allow a covered individual the opportunity to:**

13 **(1) appear in person before; or**

14 **(2) if unable to appear in person, otherwise appropriately**
 15 **communicate with;**

16 **the panel appointed under subsection (b).**

17 ~~(e)~~ **(f) An insurer shall notify a covered individual in writing of the**
 18 **resolution of an appeal of a grievance decision within five (5) business**
 19 **days after completing the investigation. The appeal resolution notice**
 20 **must include the following:**

21 **(1) A statement of the decision reached by the insurer.**

22 **(2) A statement of the reasons, policies, and procedures that are the**
 23 **basis of the decision.**

24 **(3) Notice of the covered individual's right to further remedies**
 25 **allowed by law, including the right to external grievance review by**
 26 **an independent review organization under IC 27-8-29.**

27 **(4) The department, address, and telephone number through which**
 28 **a covered individual may contact a qualified representative to**
 29 **obtain more information about the decision or the right to an**
 30 **external grievance review.**

31 **SECTION 73. IC 27-9-1-3 IS AMENDED TO READ AS FOLLOWS**
 32 **[EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A delinquency proceeding**
 33 **under this chapter may only be commenced by the commissioner. A**
 34 **court may not entertain, hear, or determine a proceeding commenced**
 35 **by any other person.**

36 **(b) A court may not entertain, hear, or determine any complaint**
 37 **requesting:**

38 **(1) the dissolution, liquidation, rehabilitation, sequestration,**
 39 **conservation, or receivership of any insurer; or**

40 **(2) an injunction, restraining order, or other relief preliminary to,**
 41 **incidental to, or relating to those proceedings other than in**
 42 **accordance with this article.**

43 **(c) In addition to other grounds for jurisdiction provided by the law,**
 44 **an Indiana court having jurisdiction of the subject matter has**
 45 **jurisdiction over a person served under the Indiana rules of court or**
 46 **other applicable law in an action brought by the receiver of a domestic**
 47 **insurer or an alien insurer domiciled in Indiana if the person served is:**

48 **(1) obligated to the insurer in any way as an incident to any agency**
 49 **or brokerage arrangement that may exist or has existed between the**
 50 **insurer and the ~~agent~~ insurance producer or broker, in any action**
 51 **on or incident to the obligation;**

(2) a reinsurer who:

(A) has at any time written a policy of reinsurance for an insurer against which a rehabilitation or liquidation order is in effect when the action is commenced; or

(B) is an **agent insurance producer** or broker of, or for, the reinsurer in any action on or incident to the reinsurance contract; or

(3) or has been an officer, manager, trustee, organizer, promoter, or person in a position of comparable authority or influence in an insurer against which a rehabilitation or liquidation order is in effect when the action is commenced in any action resulting from such a relationship with the insurer.

(d) If it appears to a receiver appointed in a proceeding under this article that there has been criminal or tortious conduct, breach of any contractual or fiduciary obligation, or other unlawful conduct detrimental to the insurer by any director, officer, manager, ~~agent~~, **insurance producer**, broker, employee, or other person or entity, the receiver may pursue all appropriate legal remedies on behalf of the insurer.

(e) If the court on motion of any party finds that any action should as a matter of substantial justice be tried in a forum outside Indiana, the court may enter an order to stay further proceedings on the action in Indiana.

(f) All action authorized by this section must be brought in the Marion County circuit court.

SECTION 74. IC 27-9-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) An officer, manager, director, trustee, owner, employee, or ~~agent~~ **insurance producer** of any insurer, or any other persons with authority over or in charge of any segment of the insurer's affairs, shall cooperate with the commissioner in any proceeding under IC 27-9 or any investigation preliminary to the proceeding. The term "person", as used in this section, includes any person who exercises control, directly or indirectly, over activities of **an** insurer through any holding company or other affiliate of the insurer. "To cooperate" includes:

(1) replying promptly in writing to any inquiry from the commissioner requesting such a reply; and

(2) making available to the commissioner all books, accounts, documents, or other records, information, or property of or pertaining to the insurer and in ~~his~~ **the insurer's** possession, custody, or control.

(b) A person may not obstruct or interfere with the commissioner in the conduct of any delinquency proceeding or any investigation preliminary to or incidental to an investigation.

(c) This section does not abridge existing legal rights, including the right to resist a petition for liquidation, other delinquency proceedings, or other orders.

(d) A person who:

(1) is included within subsection (a) and who fails to cooperate with the commissioner;

(2) obstructs or interferes with the commissioner in the conduct of

1 any delinquency proceeding or any investigation preliminary or
 2 incidental to a delinquency proceeding; or
 3 (3) violates any order of the commissioner under IC 27-9;
 4 commits a Class A infraction.

5 SECTION 75. IC 27-9-3-9 IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The commissioner may
 7 petition for an order dissolving the corporate existence of a domestic
 8 insurer, or the United States branch of an alien insurer domiciled in
 9 Indiana, at the time ~~he~~ **the commissioner** applies for a liquidation
 10 order. The Marion County circuit court shall order dissolution of the
 11 corporation upon petition by the commissioner upon or after the
 12 granting of a liquidation order. If the dissolution has not previously
 13 been ordered, the dissolution shall be effected by operation of law upon
 14 the discharge of the liquidator if the insurer is insolvent but may be
 15 ordered by the court upon the discharge of the liquidator if the insurer
 16 is under a liquidation order for some other reason.

17 (b) The liquidator may do all acts necessary or appropriate for the
 18 accomplishment of the liquidation, including the following:

19 (1) Appoint a special deputy to act for ~~him~~ **the liquidator** under
 20 this article, and determine a reasonable compensation for that
 21 special deputy.

22 (2) Employ employees and ~~agents~~, **insurance producers**, legal
 23 counsel, actuaries, accountants, appraisers, consultants, and other
 24 personnel as ~~he~~ **the liquidator** considers necessary to assist in the
 25 liquidation.

26 (3) Fix the reasonable compensation of employees and ~~agents~~,
 27 **insurance producers**, legal counsel, actuaries, accountants,
 28 appraisers, and consultants with the approval of the court.

29 (4) Pay reasonable compensation to persons appointed and defray
 30 from the funds or assets of the insurer all expenses of taking
 31 possession of, conserving, conducting, liquidating, disposing of, or
 32 otherwise dealing with the business and property of the insurer.

33 (5) Hold hearings, subpoena witnesses to compel their attendance,
 34 administer oaths, examine any person under oath, and compel any
 35 person to subscribe to ~~his~~ **the person's** testimony after it has been
 36 correctly reduced to writing, and in connection with hearings and
 37 the examination of witnesses require the production of any books,
 38 papers, records, or other documents which ~~he~~ **the liquidator**
 39 deems relevant to the inquiry.

40 (6) Collect all debts and moneys due and claims belonging to the
 41 insurer, wherever located, and for this purpose:

42 (A) institute timely action in other jurisdictions, in order to
 43 forestall garnishment and attachment proceedings against those
 44 debts;

45 (B) do other acts necessary or expedient to collect, conserve, or
 46 protect its assets or property, including the power to sell,
 47 compound, compromise, or assign debts for purposes of
 48 collection upon terms and conditions as ~~he~~ **the liquidator**
 49 considers best; and

50 (C) pursue any creditor's remedies available to enforce ~~his~~ **the**
 51 **liquidator's** claims.

- 1 (7) Conduct public and private sales of the property of the insurer.
- 2 (8) Use assets of the estate of an insurer under a liquidation order
- 3 to transfer policy obligations to a solvent assuming insurer, if the
- 4 transfer can be arranged without prejudice to applicable priorities
- 5 under section 40 of this chapter.
- 6 (9) Acquire, hypothecate, encumber, lease, improve, sell, transfer,
- 7 abandon, or otherwise dispose of or deal with, any property of the
- 8 insurer at its market value or upon such terms and conditions as are
- 9 fair and reasonable.
- 10 (10) Borrow money on the security of the insurer's assets or
- 11 without security and execute and deliver all documents necessary
- 12 to that transaction for the purpose of facilitating the liquidation.
- 13 (11) Enter into contracts that are necessary to carry out the order
- 14 to liquidate, and affirm or disavow any contracts to which the
- 15 insurer is a party.
- 16 (12) Continue to prosecute and to institute in the name of the
- 17 insurer, or in ~~his~~ **the liquidator's** own name, all suits and other
- 18 legal proceedings, in Indiana or elsewhere, and abandon the
- 19 prosecution of claims ~~he~~ **the liquidator** considers unprofitable to
- 20 pursue further.
- 21 (13) Prosecute any action that may exist in behalf of the creditors,
- 22 members, policyholders, or shareholders of the insurer against any
- 23 director or officer of the insurer, or any other person.
- 24 (14) Remove all records and property of the insurer to the offices
- 25 of the commissioner or to some other place as may be convenient
- 26 for the purposes of efficient and orderly execution of the
- 27 liquidation.
- 28 (15) Deposit in one (1) or more banks in Indiana sums required for
- 29 meeting current administration expenses and dividend
- 30 distributions.
- 31 (16) Invest all sums not currently needed, unless the court orders
- 32 otherwise.
- 33 (17) File any necessary documents for record in the office of any
- 34 recorder of deeds or record office in Indiana or elsewhere where
- 35 property of the insurer is located.
- 36 (18) Assert all defenses available to the insurer as against third
- 37 persons, including statutes of limitation, statutes of frauds, and the
- 38 defense of usury.
- 39 (19) Exercise and enforce all the rights, remedies, and powers of
- 40 any creditor, shareholder, policyholder, or member, including any
- 41 power to avoid any transfer or lien that may be given by the
- 42 general law and that is not included in sections 14 through 16 of
- 43 this chapter.
- 44 (20) Intervene in any proceeding wherever instituted that might
- 45 lead to the appointment of a receiver or trustee, and act as the
- 46 receiver or trustee whenever the appointment is offered.
- 47 (21) Enter into agreements with any receiver or commissioner of
- 48 any other state relating to the rehabilitation, liquidation,
- 49 conservation, or dissolution of an insurer doing business in both
- 50 states.
- 51 (22) Exercise all powers conferred upon receivers by the laws of

1 Indiana not inconsistent with this article.

2 SECTION 76. IC 27-9-3-10 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) Unless the
4 Marion County circuit court otherwise directs, the liquidator shall give
5 notice of the liquidation order as soon as possible by:

- 6 (1) first-class mail and either by telegram or telephone to the
7 insurance commissioner of each jurisdiction in which the insurer
8 is doing business;
- 9 (2) first-class mail to any guaranty association or foreign guaranty
10 association that is or may become obligated as a result of the
11 liquidation;
- 12 (3) first-class mail to all insurance ~~agents~~ **producers** of the insurer;
- 13 (4) first-class mail to all persons known or reasonably expected to
14 have claims against the insurer, including all policyholders, at their
15 last known address as indicated by the records of the insurer;
- 16 (5) first-class mail to the secretary of state's office; and
- 17 (6) publication in a newspaper of general circulation in the county
18 in which the insurer has its principal place of business and in all
19 other locations the liquidator considers appropriate.

20 (b) Notice to potential claimants under subsection (a) must require
21 claimants to file with the liquidator their claims, together with proper
22 proof of those claims under section 34 of this chapter, before a date the
23 liquidator specifies in the notice. The liquidator need not require
24 persons claiming cash surrender values or other investment values in
25 life insurance and annuities to file a claim. All claimants must keep the
26 liquidator informed of any changes of address.

27 (c) If notice is given in accordance with this section, the distribution
28 of assets of the insurer under this chapter shall be conclusive with
29 respect to all claimants, whether or not they received notice.

30 SECTION 77. IC 27-9-3-11 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Every person
32 who receives notice in the form prescribed in section 10 of this chapter
33 that an insurer whom ~~he the person~~ represents as an ~~agent~~ **insurance**
34 **producer** is the subject of a liquidation order must, within fifteen (15)
35 days of that notice, give notice of the liquidation order to each
36 policyholder as provided by subsection (b).

37 (b) The notice must be sent by first class mail to the last address
38 contained in the ~~agent's~~ **insurance producer's** records to each
39 policyholder or other person named in any policy issued through that
40 ~~agent~~ **insurance producer** by the insurer, if ~~he the insurance~~
41 **producer** has a record of the address of the policyholder or other
42 person.

43 (c) A policy shall be treated as though it were issued through an
44 ~~agent~~ **insurance producer** if the ~~agent~~ **insurance producer** has a
45 property interest in the expiration of the policy, or if the ~~agent~~
46 **insurance producer** has had in ~~his~~ **the insurance producer's**
47 possession a copy of the declarations of the policy at any time during
48 the life of the policy, except where the ownership of the expiration of
49 the policy has been transferred to another.

50 (d) The written notice must include:

- 51 (1) the name and address of the insurer;

(2) the name and address of the ~~agent~~; **insurance producer**; and
 (3) identification of the policy impaired and the nature of the impairment, including termination of coverage as described in section 8 of this chapter.

(e) Notice by a general agent satisfies the notice requirement for any ~~agents~~ **insurance producers** under contract to ~~him~~; **the general agent**. Each ~~agent~~ **insurance producer** obligated to give notice under this section shall file a report of compliance with the liquidator.

(f) After a hearing under IC 4-21.5-3, an ~~agent~~ **insurance producer** failing to give notice or file a report of compliance as required by subsection (e) may be subject to payment of a penalty of not more than one thousand dollars (\$1,000) and may have ~~his~~ **the insurance producer's** license suspended.

(g) The liquidator may waive the duties imposed by this section if ~~he~~ **the liquidator** determines that other notice to the policyholders of the insurer under liquidation is adequate.

SECTION 78. IC 27-9-3-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 31. (a) An ~~agent~~; **insurance producer**, a broker, an agency, a premium finance company, an insured, or any other person responsible for the payment of a premium shall be obligated to pay any earned but unpaid premium for any policy that is due the insurer for coverage provided before the declaration of insolvency. However, an ~~agent~~; **insurance producer**, a broker, an agency, a premium finance company, an insured, or any other person responsible for the payment of a premium shall not be responsible for any unpaid premium unearned as of the time of the declaration of insolvency.

(b) In addition to the obligation owed under subsection (a), an ~~agent~~; **insurance producer**, broker, agency, premium finance company, or any other person, other than the insured, responsible for the payment of a premium to the insurance company or any holding company shall pay any unearned premium collected from the insured before the declaration of insolvency. The commissioner may also recover from that person any part of an unearned premium that represents a commission of that person.

(c) Credits or setoffs or both may not be allowed to an ~~agent~~; **insurance producer**, broker, or premium finance company for any amounts advanced to the insurer by the ~~agent~~; **insurance producer**, broker, or premium finance company on behalf of, but in the absence of a payment by, the insured.

(d) Upon satisfactory evidence of a violation of this section, the commissioner may pursue the following courses of action against those parties licensed by the department of insurance:

(1) Suspend, revoke, or refuse to renew the licenses of the offending party.

(2) Impose a penalty of not more than one thousand dollars (\$1,000) for each and every act in violation of this article by the party.

These penalties are in addition to and not in lieu of the obligations owed under subsections (a) and (b).

(e) Before the commissioner may take any action as provided in subsection (d), ~~he~~ **the commissioner** shall give written notice to the person accused of violating the law, stating specifically the nature of the alleged violation, and fixing a time (at least ten (10) days after the notice is sent) and place when a hearing on the matter is to be held. After the hearing, if the commissioner finds a violation, or upon failure of the accused to appear at the hearing, the commissioner shall impose whatever penalties allowed under subsection (d) as ~~he~~ **the commissioner** considers advisable.

(f) Subsection (a) does not relieve an insured of any obligation that may exist to reimburse any agency, ~~agent~~, **insurance producer**, broker, premium finance company, or other person for amounts advanced to the insurer on behalf of the insured.

SECTION 79. IC 27-9-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The domiciliary liquidator of an insurer domiciled in a reciprocal state shall, except as to special deposits and security on secured claims under section 4(c) of this chapter, be vested by operation of law with the title to all of the assets, property, contracts, and rights of action, ~~agents'~~ **insurance producers'** balances, and all of the books, accounts, and other records of the insurer located in Indiana. The date of vesting shall be the date of the filing of the petition, if that date is specified by the domiciliary law for the vesting of property in the domiciliary state. Otherwise, the date of vesting shall be the date of entry of the order directing possession to be taken. The domiciliary liquidator shall have the immediate right to recover balances due from ~~agents~~ **insurance producers** and to obtain possession of the books, accounts, and other records of the insurer located in Indiana. ~~He~~ **The domiciliary liquidator** also shall have the right to recover all other assets of the insurer located in Indiana, subject to section 4 of this chapter.

(b) If a domiciliary liquidator is appointed for an insurer not domiciled in a reciprocal state, the commissioner shall be vested by operation of law with the title to all of the property, contracts and rights of action, and all of the books, accounts, and other records of the insurer located in Indiana, at the same time that the domiciliary liquidator is vested with title in the domicile. The Indiana insurance commissioner may petition for a conservation or liquidation order under ~~sections~~ **section** 1 or 2 of this chapter, or for an ancillary receivership under section 4 of this chapter, or after approval by the Marion County circuit court may transfer title to the domiciliary liquidator, as the interests of justice and the equitable distribution of the assets require.

(c) Claimants residing in Indiana may file claims with the liquidator or ancillary receiver, if any, in Indiana or with the domiciliary liquidator, if the domiciliary law permits. The claims must be filed on or before the last date fixed for the filing of claims in the domiciliary liquidation proceedings.

SECTION 80. IC 27-10-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. "All lines fire and casualty ~~agent~~" **insurance producer"** means an ~~agent~~ **insurance producer** who holds a valid license issued by the department of

insurance to engage in the writing and transacting of all of the following lines and kinds of insurance:

- (1) Property insurance.
- (2) Casualty insurance.
- (3) Surety insurance.
- (4) Disability insurance.
- (5) Inland marine insurance.

SECTION 81. IC 27-10-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) A person may not act in the capacity of a bail agent or recovery agent or perform any of the functions, duties, or powers prescribed for bail agents or recovery agents under this article unless the person is qualified and licensed as provided in this article. However, none of the terms of this section shall prohibit any individual or individuals from:

- (1) pledging real or other property as security for a bail bond in judicial proceedings and where the individual does not receive, or is not promised, money or other things of value; or
- (2) executing any bail bond for an insurer, pursuant to a bail bond service agreement entered into between the insurer and any automobile club or association, financing institution, insurance company, or other organization or association, and on behalf of a person required to furnish bail in connection with any violation of law arising out of the use of a motor vehicle.

(b) A license:

- (1) may not be issued except in compliance with this article; and
- (2) may only be issued to an individual.

However, upon an affirmative showing to the commissioner in writing by an individual that the individual is an all lines fire and casualty ~~agent~~, **insurance producer**, a surety bail agent license shall be issued to the individual without further qualification or fee to represent an insurer the individual is licensed to represent. The individual shall be subject to and governed by laws and rules relating to bail agents when engaged in the activities of a bail agent.

(c) A firm, a partnership, an association, a limited liability company, or a corporation may not be licensed.

(d) The applicant must apply in writing, on forms prepared and supplied by the commissioner, and the commissioner may propound any reasonable interrogatories to an applicant for a license under this article or on any renewal of a license relating to the applicant's qualifications, residence, prospective place of business, and any other matters which, in the opinion of the commissioner, are deemed necessary or expedient in order to protect the public and ascertain the qualifications of the applicant. The commissioner may also conduct any reasonable inquiry or investigation the commissioner sees fit, relative to the determination of the applicant's fitness to be licensed or to continue to be licensed.

(e) The failure of the applicant to secure approval of the commissioner shall not preclude the applicant from applying as many times as the applicant desires. However, an applicant's application may not be considered by the commissioner within one (1) year subsequent to the date upon which the commissioner denied the applicant's last

1 application.

2 SECTION 82. IC 27-10-3-3 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The application
4 for license, in addition to the matters set out in section 1 of this chapter,
5 to serve as a bail agent must affirmatively show that:

6 (1) the applicant is at least eighteen (18) years of age and is of
7 good moral character;

8 (2) the applicant has never been convicted of a disqualifying
9 offense, notwithstanding IC 25-1-1.1, or:

10 (A) in the case of a felony conviction, at least ten (10) years have
11 passed since the date of the applicant's conviction or release
12 from imprisonment, parole, or probation, whichever is later; or

13 (B) in the case of a misdemeanor disqualifying offense, at least
14 five (5) years have passed since the date of the applicant's
15 conviction or release from imprisonment, parole, or probation,
16 whichever is later; and

17 (3) the applicant has knowledge, experience, or instruction in the
18 bail bond business, or has held a valid all lines fire and casualty
19 ~~agent's~~ **insurance producer's** license for one (1) year within the
20 last five (5) years, or has been employed by a company engaged in
21 writing bail bonds in which field the applicant has actively
22 engaged for at least one (1) year of the last five (5) years.

23 (b) The application must affirmatively show that the applicant has
24 been a bona fide resident of ~~the state~~ **Indiana** for one (1) year
25 immediately preceding the date of application. However, the
26 commissioner may waive this requirement.

27 SECTION 83. IC 27-11-8-9 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) ~~Agents~~
29 **Insurance producers** of societies shall be licensed in accordance with
30 the laws regulating the licensing and the revocation, suspension, or
31 termination of license of resident and nonresident ~~agents~~. **insurance**
32 **producers.**

33 (b) No examination or license shall be required of any regular
34 salaried officer, employee, or member of a licensed society who
35 devotes substantially all of the officer's, employee's or member's
36 services to activities other than the solicitation of fraternal insurance
37 contracts from the public and who receives for the solicitation of those
38 contracts no commission or other compensation directly dependent
39 upon the amount of business obtained.

40 SECTION 84. IC 27-13-1-3, AS AMENDED BY P.L.132-2001,
41 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2003]: Sec. 3. "~~Agent~~" "**Insurance producer**" means a
43 person who is a licensed insurance ~~agent~~ **producer** under IC 27-1-15.6
44 and who:

45 (1) solicits, negotiates, effects, procures, delivers, renews, or
46 continues a policy or contract for membership in a health
47 maintenance organization or a prepaid limited health service
48 organization;

49 (2) takes or transmits a membership fee or premium for the policy
50 or contract other than for the ~~agent~~ **insurance producer**; or

51 (3) causes the ~~agent~~ **insurance producer** to be held out to the

1 public, through advertising or otherwise, as a producer for a health
 2 maintenance organization or a prepaid limited health service
 3 organization.

4 SECTION 85. IC 27-13-10-8, AS AMENDED BY P.L.133-1999,
 5 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2003]: Sec. 8. (a) A health maintenance organization shall
 7 establish written policies and procedures for the timely resolution of
 8 appeals of grievance decisions. The procedures for registering and
 9 responding to oral and written appeals of grievance decisions must
 10 include the following:

11 (1) Acknowledgment of the appeal, orally or in writing, within
 12 three (3) business days after receipt of the appeal being filed.

13 (2) Documentation of the substance of the appeal and the actions
 14 taken.

15 (3) Investigation of the substance of the appeal, including any
 16 aspects of clinical care involved.

17 (4) Notification to enrollees or subscribers of the disposition of the
 18 appeal and that the enrollee or subscriber may have the right to
 19 further remedies allowed by law.

20 (5) Standards for timeliness in responding to appeals and providing
 21 notice to enrollees or subscribers of the disposition of the appeal
 22 and the right to initiate an external appeals process that
 23 accommodate the clinical urgency of the situation.

24 (b) The health maintenance organization shall appoint a panel of
 25 qualified individuals to resolve an appeal. An individual may not be
 26 appointed to the panel who has been involved in the matter giving rise
 27 to the complaint or in the initial investigation of the complaint. Except
 28 for grievances that have previously been appealed under IC 27-8-17, in
 29 the case of an appeal from the proposal, refusal, or delivery of a health
 30 care procedure, treatment, or service, the health maintenance
 31 organization shall appoint one (1) or more individuals to the panel to
 32 resolve the appeal. The panel must include one (1) or more individuals
 33 who:

34 (1) have knowledge in the medical condition, procedure, or
 35 treatment at issue;

36 (2) are in the same licensed profession as the provider who
 37 proposed, refused, or delivered the health care procedure,
 38 treatment, or service;

39 (3) are not involved in the matter giving rise to the appeal or the
 40 previous grievance process; and

41 (4) do not have a direct business relationship with the enrollee or
 42 the health care provider who previously recommended the health
 43 care procedure, treatment, or service giving rise to the grievance.

44 (c) An appeal of a grievance decision must be resolved as
 45 expeditiously as possible and with regard to the clinical urgency of the
 46 appeal. However, an appeal must be resolved not later than forty-five
 47 (45) days after the appeal is filed. **A health maintenance organization**
 48 **that violates this subsection commits an unfair and deceptive act or**
 49 **practice in the business of insurance under IC 27-4-1-4.**

50 (d) **If a health maintenance organization violates subsection (c),**
 51 **the health maintenance organization shall file a report with the**

department during the quarter in which the violation occurred concerning the insurer's compliance with subsection (c). The report must include the following:

(1) The number of appealed grievance decisions that were not resolved as required under subsection (c).

(2) The reason each appeal described in subdivision (1) was not resolved.

(e) A health maintenance organization shall allow enrollees and subscribers the opportunity to appear in person at the panel or to communicate with the panel through appropriate other means if the enrollee or subscriber is unable to appear in person.

~~(e)~~ (f) A health maintenance organization shall notify the enrollee or subscriber in writing of the resolution of the appeal of a grievance within five (5) business days after completing the investigation. The grievance resolution notice must contain the following:

(1) The decision reached by the health maintenance organization.

(2) The reasons, policies, or procedures that are the basis of the decision.

(3) Notice of the enrollee's or subscriber's right to further remedies allowed by law, including the right to review by an independent review organization under IC 27-13-10.1.

(4) The department, address, and telephone number through which an enrollee may contact a qualified representative to obtain more information about the decision or the right to an appeal.

SECTION 86. IC 27-13-21-1, AS AMENDED BY P.L.132-2001, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. To qualify to represent a health maintenance organization or a limited service health maintenance organization, an **agent insurance producer** shall be licensed ~~and regulated as with~~ an accident and health ~~insurance agent or sickness qualification~~ under ~~IC 27-1-15.6~~ **IC 27-1-15.6-7**.

SECTION 87. IC 27-13-34-18, AS AMENDED BY P.L.132-2001, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) Except as provided in subsection (c), a limited service health maintenance organization shall maintain in force a fidelity bond in its own name on its officers and employees:

(1) in an amount not less than fifty thousand dollars (\$50,000); or

(2) in any other amount prescribed by the commissioner.

(b) The fidelity bond required by this section must be issued by an insurance company not affiliated in any way with the limited service health maintenance organization, that is licensed to do business in Indiana. However, if a fidelity bond is not available from an insurance company that holds a certificate of authority in Indiana, a limited service health maintenance organization may satisfy the requirement of this section by maintaining a fidelity bond procured by a surplus lines insurance **agent producer** not affiliated in any way with the limited service health maintenance organization who holds a license issued under IC 27-1-15.8.

(c) Instead of maintaining a fidelity bond under subsection (a), a limited service health maintenance organization may deposit with the commissioner:

- (1) cash;
- (2) certificates of deposit;
- (3) United States government obligations acceptable to the commissioner;
- (4) any other securities acceptable to the commissioner of the types referred to in IC 27-13-11-1; or
- (5) a combination of the items described in subdivisions (1) through (4).

A deposit made under this subsection is in addition to any other required deposit, and must also be maintained in joint custody with the commissioner in the amount and subject to the same conditions required for a fidelity bond under this section.

SECTION 88. IC 27-13-36.2-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) Beginning on the effective date of the date referred to in Section 262 of the federal Health Insurance Portability and Accountability Act (42 U.S.C. 1320d-4), a health maintenance organization may request from the insurance commissioner appointed under IC 27-1-1-2 a waiver from the requirements of this chapter that apply to claims filed on paper.**

(b) The commissioner may grant a waiver under this section if, not more than six (6) months after the effective date described in subsection (a), the requesting health maintenance organization experiences an increase of the lesser of:

- (1) ten thousand (10,000); or**
- (2) at least twenty percent (20%);**

in the volume of claims filed on paper.

(c) A waiver granted under this section is effective for a set period determined by the commissioner.

(d) This section expires December 31, 2005.

SECTION 89. IC 28-1-11-2, AS AMENDED BY P.L.134-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2. Any bank or trust company shall have power to act as fiscal or transfer agent of the United States or of any state, municipality, body politic or corporation; and in such capacity to receive and disburse money; to transfer, register and countersign certificates of stock, bonds or other evidence of indebtedness; to authenticate and certify any such bonds and certificates of indebtedness; to act as agent to buy and sell domestic and foreign transportation; to solicit and write insurance as ~~agent~~ **an insurance producer** or broker for any insurance company authorized to do business in the state or states where the ~~agent~~ **insurance producer** or broker operates; and to act as attorney in fact or agent of any person or corporation, foreign or domestic, for any lawful purpose.**

SECTION 90. IC 28-1-11-2.5, AS AMENDED BY HEA 1653-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. (a) A bank or trust company may act as an ~~agent~~ **insurance producer** for the sale of any life insurance policy or annuity contract issued by a life insurance company authorized to do business in any state in which the agent operates.**

(b) A bank or trust company that acts as an **agent insurance producer** for the sale of a life insurance policy or an annuity contract in Indiana:

- (1) is subject to all requirements of IC 27; and
- (2) must comply with the disclosure requirements under IC 27-1-38.

(c) A bank or trust company may not condition:

- (1) an extension of credit;
- (2) a lease or sale of real or personal property;
- (3) the performance of services; or
- (4) the amount charged for:
 - (A) extending credit;
 - (B) leasing or selling real or personal property; or
 - (C) performing services;

upon a person's purchase of a life insurance policy or an annuity contract from the bank or trust company or an affiliate (as defined in IC 28-2-13-3) of the bank or trust company.

(d) This section does not prohibit a bank or trust company from requiring that a person, as a condition to a transaction, obtain a life insurance policy from an insurance company acceptable to the bank or trust company.

SECTION 91. IC 28-5-1-6.5, AS AMENDED BY P.L.130-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6.5. (a) Notwithstanding any other provision of this title, an industrial loan and investment company may act as an **agent insurance producer** for the sale of any annuity contract issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in Indiana under IC 27-1.

(b) An industrial loan and investment company that acts as an **agent insurance producer** for the sale of an annuity contract:

- (1) is subject to all requirements of IC 27 relating to the sale and solicitation of insurance, including licensing as an **agent insurance producer** under IC 27-1-15.6; and
- (2) must comply with the disclosure requirements under IC 27-1-38.

(c) This section does not give power to, or otherwise affect the power of, an industrial loan and investment company to act as an **agent insurance producer** for the sale of life insurance other than an annuity contract.

SECTION 92. IC 28-6.1-6-14, AS AMENDED BY P.L.130-2002, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) A savings bank may solicit and write insurance as an **agent insurance producer** or a broker for any insurance company authorized to do business in the state or states where the **agent insurance producer** or broker operates.

(b) A savings bank or its affiliate (as defined in IC 28-6.2-1-4) may act as an **agent insurance producer** for the sale of any life insurance policy or annuity contract issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in the state or states where the **agent insurance producer** operates.

(c) A savings bank or its affiliate that acts as an **agent insurance producer** for the sale of a life insurance policy or an annuity contract under subsection (b):

- (1) is subject to all requirements of IC 27 with respect to the **agent's insurance producer's** activity in Indiana; and
- (2) must comply with the disclosure requirements under IC 27-1-38.

(d) A savings bank or its affiliate may not condition:

- (1) an extension of credit;
- (2) a lease or sale of real or personal property;
- (3) the performance of a service; or
- (4) the amount charged for:
 - (A) extending credit;
 - (B) leasing or selling real or personal property; or
 - (C) performing services;

upon a person's purchase of a life insurance policy or an annuity contract from the savings bank or its affiliate.

(e) This section does not prohibit a savings bank or its affiliate from requiring that a person, as a condition to a transaction, obtain a life insurance policy from an insurance company acceptable to the savings bank or its affiliate.

SECTION 93. IC 28-7-1-9.1, AS AMENDED BY P.L.130-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9.1. (a) A credit union or a related credit union service organization (as defined in section 0.5(7) of this chapter) that acts as an **agent insurance producer** for the sale of a life insurance policy or an annuity contract issued by a life insurance company (as defined in IC 27-1-2-3):

- (1) is subject to the requirements of IC 27; and
- (2) must comply with the disclosure requirements of IC 27-1-38.

(b) A credit union or credit union service organization may not condition:

- (1) an extension of credit;
- (2) a lease or sale of real or personal property;
- (3) the performance of a service; or
- (4) the amount charged for:
 - (A) extending credit;
 - (B) leasing or selling real or personal property; or
 - (C) performing services;

upon a person's purchase of a life insurance policy or an annuity contract from the credit union or related credit union service organization.

(c) This section does not prohibit a credit union or a credit union service organization from requiring that a person, as a condition to a transaction, obtain a life insurance policy from an insurance company acceptable to the credit union or credit union service organization.

SECTION 94. IC 28-14-3-10, AS AMENDED BY P.L.215-1999, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. A corporate fiduciary has the power to act as fiscal or transfer agent of the United States or any state, municipality, body politic, or corporation, and may, in that capacity:

- (1) receive and disburse money;
- (2) transfer, register, and countersign certificates of stocks, bonds, and other evidence of indebtedness;
- (3) authenticate and certify bonds and certificates of indebtedness referred to in subdivision (2);
- (4) act as agent to buy and sell domestic and foreign transportation;
- (5) solicit and write insurance as **agent insurance producer** or broker for any insurance company authorized to do business in Indiana; and
- (6) act as attorney in fact or agent of any person or corporation, foreign or domestic, for any lawful purpose.

SECTION 95. IC 28-14-3-11, AS AMENDED BY P.L.130-2002, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Notwithstanding any other provision of this title, a corporate fiduciary may act as an **agent insurance producer** for the sale of any annuity contract or any life insurance policy issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in Indiana under IC 27-1.

(b) A corporate fiduciary that acts as an agent for the sale of an annuity contract or a life insurance policy:

- (1) is subject to all requirements of IC 27 relating to the sale and solicitation of insurance, including licensing as an **agent insurance producer** under IC 27-1-15.6; and
- (2) must comply with the disclosure requirements under IC 27-1-38.

SECTION 96. IC 34-18-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The surcharge shall be collected on the same basis as premiums by each insurer, risk manager, or surplus lines **agent producer**.

(b) The surcharge is due and payable within thirty (30) days after the premium for malpractice liability insurance has been received by the insurer, risk manager, or surplus lines **agent producer** from a health care provider in Indiana. If a surcharge is not paid as required by this section, the insurer, risk manager, or surplus lines **agent producer** responsible for the delinquency is liable for the surcharge plus a penalty equal to ten percent (10%) of the amount of the surcharge.

(c) If the annual premium surcharge is not paid within the time limit specified in subsection (b), the certificate of authority of the insurer, risk manager, and surplus lines **agents producer** shall be suspended until the annual premium surcharge is paid.

SECTION 97. IC 35-43-9-4, AS AMENDED BY P.L.132-2001, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. As used in this chapter, "title insurance agent" means a person who holds a limited **insurance representative's lines producer's** license issued under IC 27-1-15.6-18(4) and disburses funds from a title insurance escrow account to a party in connection with a residential real property transaction.

SECTION 98. [EFFECTIVE JULY 1, 2003] (a) **IC 27-8-28-17 and IC 27-13-10-8, both as amended by this act, apply to an appeal of a grievance that is filed after June 30, 2003.**

(b) **This SECTION expires June 30, 2006.**

- 1 **SECTION 99. An emergency is declared for this act.**
(Reference is to EHB 1407 as reprinted April 10, 2003.)

Conference Committee Report
on
Engrossed House Bill 1407

Signed by:

Representative Fry
Chairperson

Senator Paul

Representative Ripley

Senator Lewis

House Conferees

Senate Conferees